

SPEECH

OF

MR. UNDERWOOD. OF KENTUCKY.

ON

THE BILL DEFINING THE BOUNDARY BETWEEN TEXAS AND  
NEW MEXICO, AND TO PAY \$10,000,000 TO TEXAS.

DELIVERED

IN THE SENATE OF THE UNITED STATES, AUGUST 7 and 8, 1850.

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STREET

MR. UNDERWOOD OF KENTUCKY

OR

MR. UNDERWOOD OF KENTUCKY  
AND TO THE SENATE OF THE STATE OF TEXAS

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IN THE SENATE OF THE STATE OF TEXAS  
JANUARY 1, 1890

REPORT

OF THE  
COMMISSIONER OF THE GENERAL LAND OFFICE



## THE TEXAS BOUNDARY.

The Senate proceeded to the consideration of the special order of the day, being the bill proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the said State of all territory claimed by her exterior to said boundaries, and of all her claim upon the United States.

Mr. UNDERWOOD said: I feel constrained, Mr. President, to consume some of the time of the Senate in my opposition to this bill. I am one of those who may, to some extent, be held responsible for the defeat of what has been denominated the compromise bill. When the Senator from Georgia offered his amendment to that bill, after the various fluctuations and manifestations of impetuosity on the part of the friends of that measure in changing positions, I immediately entered my protest against the amendment. The Senator from Maryland, who introduced the measure now before the Senate, has the responsibility of having made the motion for which I voted, and which, according to the friends of the compromise bill, ended in its destruction. He has had his share of censure; and I, less distinguished and more humble than he, have escaped from public notice, and from the colossal weight of his responsibility.

But, Mr. President, I intended from the beginning, if the committee had ever thought proper to fill the blank in the *omnibus*, to submit to the Senate some remarks, on the subject. That bill having been disposed of without the blank ever having been filled, and the same proposition in substance, with a slight modification, coming up under this bill offered by the Senator from Maryland, it seems to me that the occasion has now arisen for my taking that general view of the subject, which I had always contemplated taking, and upon which I wish to stand before my constituents.

The question of slavery, in one respect, can never be so disposed of as to prevent agitation. So far as it is a moral and religious subject, and so far as men have differed, do differ, and will continue to differ in regard to the institution upon moral and religious principles, there is no possibility of ever ending agitation, either in this or any other country where slavery exists. In that respect, sir, it is like the question of the Hindoo religion, or the Mahomedan religion, or any other religion upon which men in different ages have disputed. In that respect, it is like the question of government, whether it shall be monarchical, aristocratical, or democratical. Men in all ages of the

world have differed on these subjects, and will discuss them to the end of time. And so in respect to slavery. As long as men are tolerated in uttering and publishing their thoughts, the question of slavery, like religion and politics, will be discussed and agitated in a free country. What then in reference to the mere question of slavery, will this bill accomplish? The few remarks I have made show that you cannot prevent the operations of the minds of men, or silence their tongues. It can only have one of two effects, and it is not possible for it to have any other. The one is, that it may enlarge, and the other is, that it may restrict the territory on which we may place slave population.

Now, sir, which of these effects will it have? Will it enlarge the territory? If it does, it may be said, that it commends itself to the southern mind; and that Senators from the South must go for the bill because it enlarges the area of slavery. If it restricts and converts into free soil, that which otherwise would be slave territory, then it wears an aspect in which it will commend itself to the northern mind, and induce northern Senators to go for the bill. Now, which of these will this bill accomplish? Can any one tell? Sir, it depends entirely upon ulterior steps. It depends upon the legislation of this body for the territory, if you choose to assume the jurisdiction of legislating on the subject of slavery, or it depends upon the legislation of the people of the Territory themselves, after you have separated it from Texas. And how will they decide the question? Does anybody know? It cannot be told whether we shall have free soil or slave territory, because it depends upon ulterior legislation, either on the part of Congress or on the part of the people of the Territory. In reference, then, to the restriction or extension of slavery, this bill settles nothing—establishes nothing. It does not hold out to the people of the United States either that it shall be free, or slave, territory. How then does it settle the question of slavery in reference to the Territory?

Well, sir, if it will neither produce a cessation of discussion, on the subject of slavery, in the pulpit, in the press, on the stump, or at the fireside—if it accomplishes none of these purposes—if, upon the face of the bill, it neither says it shall be free territory nor slave territory, does it not leave the whole question of slavery perfectly afloat? Then, sir, it seems to me that we ought to lay out of view all connection whatever between the much-mooted



question of slavery and the provisions of this bill. We ought to look upon them as wholly distinct and disconnected. A friend suggests that there ought to be no connection between them. So I think. We ought to settle the boundary of Texas upon principles wholly disconnected with the question of slavery.

But what have we seen? We saw a vote taken here the other day, every southern man, I believe, except myself, voting that the Rio del Norte was the true boundary of Texas, from its mouth to its source, and every northern man voting that it was not.

Mr. MANGUM. I beg pardon for interrupting the gentleman, but I think I have never given any such vote. If I did, I misunderstood the question. That is not in accordance with my opinion at all.

Mr. UNDERWOOD. Perhaps the Senator from North Carolina [Mr. MANGUM] was not in the Senate at the time. He might not have been here; and perhaps the language which I used when I said "every northern man" and "every southern man," should be regarded as hyperbolic. I do not know that every Senator from these two sections of the Union was in his seat at the time. I will not do injustice to any Senator; but I mean to be understood, if possible, and, in what I have to say, to tell a plain tale. The vote to which I have just referred was a vote in which geographical position seemed to regulate the opinion and belief of Senators. Now, sir, when the minds of men, upon matters of law and fact, are governed, *en masse*, by geographical position, it argues very unfavorably, it seems to me, for the interests of the country. But, sir, the question of slavery should have little or nothing to do with the opinions of gentlemen upon this bill, which presents a question of boundary, wholly and entirely disconnected with the question of slavery; and in this point of view I will proceed to examine it.

This bill proposes to pay Texas ten millions of dollars, in a stock to be issued by the Government, bearing five per cent. interest, one half, or five millions of it, not to be issued till the Government shall have received assurance that certain creditors of Texas have been paid and are satisfied. This bill presents two prominent ideas: first, that Texas owns the territory which we are to purchase; and second, that there is a class of her debts which we are bound in some sense to provide for, and from which we desire to be released. My first remark, Mr. President, is this: If Texas owns the country, I do not want to buy it. If she owns it, I want her to keep every foot of it. If Texas owns the country, it is slave territory, and I wish it to remain so. I have differed with others upon this floor upon the subject of extending slave territory. I conscientiously believe that the extension of slavery over territory, when you cannot increase the number of slaves by that extension, will operate to the relief of those States which have a superabundant slave population; and I believe that if Kentucky and some other States are ever to get rid of slavery, as I most sincerely trust they may, that diffusion will help them to get clear of that description of population. But, sir, I believe further: I believe that the Constitution of the United States was formed when slavery existed in a majority of the States forming that

Constitution. Upon the face of the Constitution itself it is shown that the existence of slavery was not regarded as an institution which prevented the operation of the National Government for national purposes in any respect whatever. I believe that the great powers which exist in the National Government can be made to operate beneficially for the people of the United States, as well without as with the existence of slavery, and as well with as without it. Sir, the institution of slavery is a local, domestic institution, and, like most domestic institutions, has nothing whatever to do with the exercise of the great and general powers for which this Government was created. It has no more to do with the general powers of the Government, than would the institution of polygamy, if a part of the country was inhabited by Mahomedans.

Sir, I hope to see the day when the great Powers of the earth shall, by treaty stipulations, form a Government to settle international disputes, and to keep the peace of the world. To such a Government, nations would bear the relation, by comparison, which the States of our Union bear to each other under the Constitution of the United States. Such a Government for nations should be much less complicated than our system. It should be confined to settling national disputes and the prevention of war; and with these limited functions it would be a great, if not the greatest, blessing to mankind. In all other respects, nations should be left to the free management of their own affairs, just as our States are permitted to control their local and domestic concerns, untrammelled by the Federal Government. There is no difficulty in dividing the powers of Government, and providing magistrates to exercise a single power, or a class of powers. Our Federal and State Governments constitute a striking and glorious example. In every State we have governments for local purposes within the government. We have laws made by county authorities, and then by towns within the counties. So that we have national laws, State laws, county laws, and town laws, all operating in harmony, upon the same people at the same time, and having their origin in very different sources. Such a division and separation of the powers of Government is essential to the maintenance of freedom. Should the nations of the earth, by treaty stipulations, create a tribunal to settle national disputes, it will not be derogatory to their honor and dignity to submit to its decrees. Such a tribunal for the settlement of controversies to which a State is a party, has been created by the Constitution of the United States, and to this tribunal I wish to refer the settlement of the controversy with Texas.

Now, sir, slavery has nothing to do with the distribution and exercise of political power—nothing whatever. Nor will its diffusion obstruct the accomplishment of those great purposes for which the National Government was formed. I therefore say, that if any part of New Mexico belongs to Texas, it is now slave territory, and I am for permitting it so to remain. I am for opening the door through which the people of the slaveholding States may emigrate with their slave property. If the country belongs to Texas, I am unwilling to pay her ten millions for any part of it, and take the chance of converting it into "free soil." If Texas owns the country, I know that my views



will be carried out by making no purchase. But, if we buy, what will then happen, nobody can tell. I have my opinion, but it is useless to speculate.

Mr. DOUGLAS. I will ask the Senator from Kentucky whether he will permit me to suggest to him that the hour has arrived for taking up the California bill? and also whether it will not be in order to move that the Senate now proceed to the consideration of that bill?

Mr. UNDERWOOD. I have no objection; but I wish to say that the time has arrived for the expression of opinions I have long entertained. I have collected fact upon fact, and document upon document, which have never yet made their appearance in this Senate. If I did not believe that I had something new to say, I would not speak at all. I dislike above all things, the repetition, for the thousandth time, of the same worn-out idea. But I do know, that there is a great deal of matter in the budget before me which has not yet been brought forward, and which, I think, entitled to much consideration in disposing of the bill before us. I will now yield the floor, and allow the Senator from Illinois to make his motion.

THURSDAY, August 8; 1850.

The bill being again under consideration—

Mr. UNDERWOOD said: Yesterday, Mr. President, I stated some of the motives which probably would have their influence in making or rejecting the bargain proposed to Texas in this bill. I then considered how far the question of slavery ought to operate upon the proposed arrangement. The first question to which I wish to call the attention of the Senate this morning is, whether the purchase we are about to make is valuable in itself, supposing that Texas has the title. Is the land, the domain, or any advantage that we get, sufficiently valuable to justify the payment of ten millions of dollars? According to the bill, the line dividing the territory is to begin on the hundredth degree of west longitude, where it intersects the parallel of  $36\frac{1}{2}$  degrees of north latitude, and to run west three degrees of longitude, and then south to the thirty-second degree of north latitude, and then west to the Rio Grande. If gentlemen will look at the map they will see that this line concedes to Texas, as a part of her territory, all south of  $36^{\circ} 30'$  north latitude, and east of the 103d degree of west longitude, as low as the 32d degree of north latitude, making almost one half of the Territory of New Mexico on the east side of the Rio Grande, and leaving to the United States the other half. How much of the land on our side of the line is vacant and unappropriated no one knows. Is there any part of it not now owned by the people inhabiting the valley of the Rio Grande around Santa Fé? What information have we on the subject? None, none! This country has been settled by Europeans and their descendants more than two hundred years.

Now, sir, if the country be valuable for agricultural purposes, or for mining or anything else, is not the presumption strong and irresistible that most, if not all of it, has long since been appropriated, and is at this time the private property of its inhabitants? We are bound by our treaty obligations to protect them in their property and possessions. From the great length of time during which the country has been settled, the strong desire of the human heart to own good lands, and

the facility with which Spanish and Mexican grants could be obtained, I think the inference is conclusive that there are no lands of any value remaining vacant in that part of the territory which by this bill the United States are to retain. Those portions of the country now uninhabited by civilized men, lying upon the headwaters of Red river, and extending to the Arkansas river, are sterile regions, elevated more than three thousand feet above the level of the sea, fit only for buffalo pastures and hunting grounds. In these plains the savage Cumanche roams and lives. Ages will probably pass by before civilized hands will possess and cultivate a country so uninviting and illy adapted to agricultural purposes. No better evidence of the general sterility of the whole of New Mexico can be required than the fact that it has been possessed by Europeans and their descendants more than two centuries, and yet the entire population on both sides the Rio Grande, including the civilized Pueblo Indians, has not reached one hundred thousand souls. No one under these facts can believe, for a moment, that the land we are to obtain is worth the tenth part of the money we are to pay. Whatever land we may get will be incumbered by the Indian title, and, so far as it shall be so incumbered, before we can appropriate and convert it to agricultural purposes, we must extinguish this title. How much more that will cost, I leave to be answered by our experience of the past in reference to all the tribes with whom we have treated. The idea has been suggested that we ought to purchase the title of Texas in order to convert the country between the Red and Arkansas rivers into Indian territory, and to annex it to the Indian country, already set apart for the use of the Indian tribes. There is no necessity to make the purchase for any such object, because the country between the Red and Arkansas rivers west of the 100th degree of west longitude now belongs to the Indians. But, if it were necessary to make the purchase for that object, this bill obstructs and embarrasses its accomplishment, by permitting Texas to hold all the country north of Red river, adjoining the territory already set apart for the Indians as far north as  $36^{\circ} 30'$  north latitude. If hereafter we find it proper to enlarge the Indian territory by extending it further westward, this bill puts it in the power of Texas to demand ten millions more for the country which by the bill we concede to her.

Mr. President, the foregoing considerations satisfy and convince me that we are to obtain in this bargain no equivalent in land for the \$10,000,000 we are to pay, and that, if anything can justify the passage of the bill, we must look for it elsewhere. Where else shall we find it? We are told that the strongest motives urging its passage are, the prevention of civil war between Texas and the United States, and the peace, concord, and brotherly love which it will diffuse throughout the Union.

That we have talked so much about civil war and bloodshed in this Chamber, and so much has been poured out by the press on the same subject, as to alarm persons of weak nerves, I shall not deny. That there ever was, or now is, any real danger growing out of the dispute in relation to the boundaries of Texas, I cannot believe. Surely the people of Texas and of the United States have not so far lost their senses that they are ready to



decide the rights of Texas by the sword. When is this war to begin, and who shall begin it? It is only a little more than two years since the treaty of peace with Mexico was concluded, and no one has ventured to say that the United States has withheld from or trampled upon any right of Texas further back than the date of the ratification of the treaty of peace. Up to that time no objection was made in any quarter to the conduct of the United States, in holding Santa Fé and the surrounding country, and governing its inhabitants. If the United States, or its Government, has injured Texas; it has been done since peace was made with Mexico, and the injury consists in holding the possession of Santa Fé and surrounding country, and claiming it as territory belonging to the United States. Will Texas, for such an injury as this, not yet three years old, go to war and march an army to Santa Fé, in order to expel by force the authorities of the United States? The first powerful objection to such a procedure on the part of Texas is to be found in the "hot haste" of so rash an act. Look at the history of our country—look at the history of all civilized nations, and see with what forbearance they receive injuries, and what delays, in diplomatic efforts to redress them, occur before the sword is drawn. How long has it been since our claims against Portugal originated, which are about to eventuate in a rupture? It has been so long that memory cannot be relied on, and we must consult records for the answer. How long did our ancestors, when colonists, petition and remonstrate against British oppression before drawing the sword and declaring their independence? How long did we suffer under orders in council and submit to impressment before declaring war in 1812? Sir, I refer to those things, and to our intercourse with all the nations of the earth in times past, to show that we have wisely delayed, not two or three, but tens and twenties of years before drawing the sword to vindicate our dearest rights, and that too against foreign nations. Shall Texas, in the face of all these examples to the contrary, draw the sword against their brethren of the United States—against those who are bone of their bone and flesh of their flesh—because the Government will not forthwith, upon her demand, surrender a territory which Texas claims? Sir, I ask for a pause. Let us see whether we cannot settle the dispute through the instrumentality of the Supreme Court, wisely provided by the Constitution for the adjustment of such controversies, and which I believe to be the appropriate and preferable remedy. Or, if that is not satisfactory, let us refer the matter to commissioners to arbitrate and adjust. By my votes I have already indicated my willingness to adopt either of these plans.

But, sir, if we have injured Texas, and she draws the sword to resent it and to redress the wrong, do you expect to silence her complaints and stop her action by \$10,000,000? Is she a child unjustly cuffed until she cries out with rage; and is she then to be silenced by our putting sugar plums in her mouth? Mr. President, we ought to approach and deal with Texas and this whole business like men. We ought to be firm, rational, and just ourselves, and take it for granted that Texas intends to act upon the same high principles. These principles must lead to a peaceable, bloodless settlement of the controversy in due time. I am

unwilling to act in a hurry, under an apparent threat.

Mr. RUSK. I dislike to interrupt the honorable Senator, but as he is stating facts I wish to say a word. I have heard here, and seen it stated elsewhere, that Texas was drawing the sword and rushing into war. Now, the fact is exactly the reverse. The United States are taking measures to bring Texas to unconditional submission to military orders, or to force her to defend her constitutional rights the best way she may. Sir, the military force in Santa Fé is being increased, and it is increased because a Texan commissioner was sent there to organize a county. Arms and ammunition are being transported at this moment to Santa Fé; and we have an official document before us on this subject, upon which I will not now speak. Texas will do nothing that precipitates anything like a collision, or that may end in unfortunate consequences; nor will I, while I am sworn to maintain the Constitution of the United States; but while, by all means, the State which I represent and I myself will defend these constitutional rights without counting the cost beyond it, I will not be provoked to do anything which, when the truth comes to be told, and is distinctly understood, can be made as a charge that Texas began the conflict. Now, I know, sir, that these statements make powerful appeals to the community; I know it is going forth from different quarters that Texas is refractory; that she is to be thrashed into obedience. Sir, it is not according to the spirit of our Government that she should determine the controversy herself without law; and then it is not becoming in a Power of such magnitude to rise up and threaten the weakest State, in point of physical capacity, perhaps, in the whole Union.

Mr. UNDERWOOD. Mr. President, I am a man of peace. I love peace for its own sake, and I admire bravery. I respect the manifestation which my friend from Texas has just given of a willingness to abide any consequences when acting in a just cause. It is the proper spirit to actuate a man, and I have no esteem for him who does not show it. I feel sympathy and admiration for the man who has the boldness to stand up under all circumstances and do what he believes to be right, although I may think he is doing what is wrong. The errors of such a man are always unintentional; his motives always pure.

Now, sir, the very thing which the Senator seems to take for granted is the issue between us. In his opinion, the United States are aggressing upon Texas. In my opinion, there is no such aggression. The United States are only holding possession of a Territory conquered by their arms, acknowledged to belong to them by the treaty of Guadalupe Hidalgo, and paid for by their money.

Now, I insist, under such circumstances, that the United States is justified in holding possession until the controversy with Texas is settled either by the Supreme Court, or by arbitration, or by mutual agreement. The complaint of Texas grows out of the refusal to acknowledge her right, and to give her immediate possession and jurisdiction over the country; and the intimation, if not threat, is, that she would be justified in redressing herself by force. Should she raise troops and march them into New Mexico for any such purpose, she



would be making war against the United States, and all engaged would commit the overt act of treason, and subject themselves to the traitor's doom. In such an event it would be the duty of this Government to repel force by force. If Texas sends no army to New Mexico there will be no collision. Certainly the United States will not march armies into Texas and attack her, merely because she puts up a claim as baseless as the "fabric of a vision" in the opinion of thousands. If a state of war is to exist it will be by the act of Texas, and upon her must rest the consequences and the responsibility. But, sir, I regard the idea of war as utterly ridiculous. The Constitution expressly prohibits the States of our Union from engaging in war, unless actually invaded, or in such imminent danger as will not admit of delay; or keeping troops in time of peace, without the consent of Congress. I deny that Texas is invaded, or in any danger of invasion. I insist that the present is a time of peace, and that Congress has given no consent that Texas shall raise and keep an army of troops in the field for any purpose. Nothing short of that degree of infatuation which approximates insanity can induce Texas, in violation of the Constitution, to raise troops and make war upon the United States. I estimate the good sense and patriotism of the people of Texas too highly to believe for a moment that they can be stimulated and excited to rebellion by demagogues and desperadoes who may gain, but cannot lose by revolution. I feel confident that the representatives of Texas in Congress must perceive among their associates a prevailing disposition to adjust the boundaries of their State. The only question is the proper mode of doing it. Perceiving such disposition, the members of Congress from Texas should, and doubtless will, recommend patience and forbearance to the authorities of their State. Such counsel from them will surely prevail. For myself, I can assure them, convinced as I am, that no part of the Santa Fé country belongs to Texas, yet, if the Supreme Court, or arbitrators, or Congress should decide in her favor, no one will submit to the decision more readily or cheerfully than myself. But until such decision is rendered I must insist that the country shall continue under the jurisdiction of the United States, and that the obligations imposed on us by the treaty of Guadalupe Hidalgo, to protect the people of New Mexico in the enjoyment of their liberty, property, and religion, shall be fulfilled. At all events, I for one will not, either through fear of Texan bayonets or resentment towards Texan assumptions, do more nor less than I think should be done under the most modest and calm assertion of her claim.

Mr. President, there is an historical incident which proves, beyond question, Texas herself being judge, that the sum of ten millions now proposed to be paid to Texas, even if she had an undisputed title to the territory, is unreasonable and extravagant. On the 5th of November, 1840, General Hamilton, Minister of Texas, addressed a letter to Viscount Palmerston, then principal Secretary of State for Foreign Affairs of the Kingdom of Great Britain, in which he proposed, in substance, that Texas should assume to pay £1,000,000 sterling, or \$5,000,000, in case Mexico, through the mediation of Great Britain, could be induced to enter into a "treaty of amity and com-

merce with Texas which shall provide for a satisfactory and well-defined boundary between the two countries." In nine days after this letter bears date, General Hamilton and Lord Palmerston concluded a convention by which Texas agreed to assume £1,000,000 sterling of the foreign debt of Mexico, provided her Britannic Majesty's mediation secured for Texas an unlimited truce with Mexico, to be followed by a treaty of peace. It is worthy of remark that the convention is altogether silent about procuring a "satisfactory and well-defined boundary between the two countries." A full account of these transactions may be found in Maillard's history of Texas, commencing at page 180. Thus we perceive with what promptness Great Britain acts whenever there is a prospect of securing the interests of her subjects who may have loaned their money to foreign governments; and we also see that the minister of Texas bound his Government in the end to pay \$5,000,000 just for a truce and a treaty of peace. Does anybody believe that the parties to these negotiations ever dreamed of insisting that Mexico should cede to Texas all that part of New Mexico lying east of the Rio Grande? If such was the intention, why not express it in plain direct terms? There could have been no such fixed purpose.

But suppose that to have been the intention. Concede, if you please, that Texas only intended to pay the million sterling in case her boundary was established from the mouth to the source of the Rio Grande, and thence north to the 42d degree of north latitude. What then? Why, sir, it only shows that Texas, at a time when she was laboring under all the evils and afflictions of a state of war, and had every motive to purchase peace at a high price, was not willing to pay more than \$5,000,000 for the whole country; and now, when the country has been acquired by the arms and money of the United States, and Texas has nothing but a claim founded upon an act of her own General Assembly, giving the country to herself, she demands \$10,000,000 from us for half, when she was only willing to give \$5,000,000 for the whole! I say demands \$10,000,000, because I suppose that sum has been inserted in this bill with the understanding that it meets the wishes and approval of the Senators of Texas. Now, sir, the conduct of Texas in attempting by act of Assembly to appropriate to herself the territory of another people, and then, in virtue of such appropriation, holding half and selling the other half for ten millions of dollars, will be, according to my judgment, one of the most extraordinary events of modern history. It exceeds in boldness of pretension the conduct of the Popes of Rome in the 15th century. Nicholas the 5th, in 1454, gave to Alphonsas, King of Portugal, the empire of Guinea, and the power to subdue its barbarous nations, forbidding all others to sail thither. Pope Alexander the 6th, in 1493, gave the New World, the continent on which we live, to Ferdinand and Isabella, King and Queen of Castile and Arragon. But in these munificent gifts, proceeding from those who assumed to be the vicegerents of the Almighty on earth, there was at least the appearance of disinterestedness. The Popes did not give continents and countries possessed by and belonging to other nations to themselves. Moreover, the countries thus granted by the Holy See were heathen and unchristian. In the nineteenth century



Texas, improving upon the examples of Rome, grants to herself by act of Assembly jurisdiction and power, title and dominion, over the country of Santa Fé and its christian people.

Well, sir, whatever opinions others may entertain, I cannot believe in the validity of the Texan title, unless it has a better foundation to rest on than her act of Assembly of the 19th December, 1836, purporting to define her civil and political jurisdiction, and to extend her boundary to the Rio Grande.

My remarks thus far and my opposition to the bill have gone upon the concession that Texas had a colorable or valid title to the Santa Fé country. I will now take up the question of title, and demonstrate, as I think I can, that she has not the shadow of a title to any portion of the country heretofore known upon the maps as New Mexico or Santa Fé.

According to Vattel, the earth was destined by the Creator to be the common habitation and nursing mother of all men. The right of inhabiting it, and drawing from it the things necessary for subsistence, is derived from nature. "But the human race, (says this admirable author,) being extremely multiplied, the earth became no longer capable of furnishing spontaneously and without culture support for its inhabitants, and could not receive proper cultivation from the itinerant nations who had possessed it in common. It then became necessary that these people should fix themselves on some part of it, and that they should appropriate to themselves portions of land, in order that, not being disturbed in their labor nor disappointed in obtaining the fruits of their industry, they might apply themselves to render their lands fertile, that they might draw their subsistence from them. This must have introduced the rights of *property and dominion*, and this fully justifies their establishment. Since their introduction, the common right of all mankind is restrained to what each lawfully possesses. The country inhabited by one nation, whether it has transported itself thither, or whether the families of which it was composed, finding themselves spread over the country, had formed themselves into the body of a political society; this country, I say, is the settlement of the nation, and it has a proper and exclusive right to it." Here, in the language of Vattel, we have the basis upon which the title of the New Mexicans to the country east of the Rio Grande around Santa Fé has rested for more than two hundred years. These people, however, were part of the "political society" constituting at one time a portion of the dominions of Spain and at a subsequent period those of Mexico, and accordingly, by the treaty between the United States and Spain in 1819, we acknowledged the title and domain of this country to be with Spain, and subsequently, after the Spanish colonies (imitating our example) had asserted and maintained their independence, by a treaty made in 1828, we acknowledged the title and domain to be with Mexico, of which "political society" Texas herself was then a part. Here, then, I take my first position in relation to the title, and affirm, that in 1828, by treaty stipulations amounting to an estoppel, Mexico owned and possessed through her citizens the country in question. If this position defies assault, then it must be shown that Texas has subsequently to 1828 derived a valid title from Mexico, and, unless

that can be satisfactorily established, Texas has no title. Now, according to Vattel, and other writers on the laws of nations, there are but two modes of divesting a nation of its domain, and acquiring title. It must be done either by force or by contract—in other words, by conquest or treaty. Did Texas acquire any title to the Santa Fé country by conquest? It is notorious that she did not. A hostile Texan never entered Santa Fé except as a prisoner of war. Did Texas acquire any title by contract or treaty? If so, where is the contract or treaty, with whom was it made, and has it any binding force? The treaty made with Santa Anna after his defeat and capture at the battle of San Jacinto in 1836, is the only treaty which has been mentioned and relied on. This treaty has no effect, 1. Because Santa Anna had no power or authority to alienate any of the territory of Mexico; 2. Because he was a prisoner under duress, and treating with a view to save his life, and regain his liberty. For this reason, if he had possessed the power to alienate, the cession would have been a nullity; 3. Because the treaty with Santa Anna does not on its face purport to cede territory. Its language is, "The Mexican troops shall evacuate the territory of Texas, passing to the other side of the Rio Grande del Norte." (See the treaty in Maillard's History of Texas, page 112.) 4. Because, by the constitution of Mexico, no treaty made by the President of the Republic is complete and valid until it shall have been ratified by the General Congress. This is verified by the thirteenth clause of the article enumerating the exclusive faculties of the General Congress. For these reasons the claim of Texas derives no support whatever from the treaty with Santa Anna, which instead of being ratified by the Mexican Congress, was disavowed, and General Filisola put upon his trial for having obeyed the injunctions of Santa Anna when he was a prisoner of war. (See Maillard's History, page 121.) Suppose when the British took this capital they had captured Mr. Madison, then President of the United States, and he when a prisoner had entered into a treaty ceding and annexing to Canada either a small or large portion of the territory of the United States, what would have been thought of its validity? The answer to this question is the proper answer to the pretensions of Texas, founded on the treaty with Santa Anna.

I admit that Texas, by her revolution, conquered and established her independence, and it becomes an important matter to ascertain, if we can, how far this conquest extended, and what portion of the country it covered. So far as Texas had known and defined limits prior to her revolution, I admit that her success in the war with Mexico entitles her to hold up to those limits. But when Texas desires to go beyond the boundaries limiting her territory, prior to her revolution, she cannot extend and enlarge her limits upon the ground that she successfully defended her acknowledged possessions, that which she held before the war commenced; but she must show that she successfully invaded the territory of the enemy, made conquests of the territory so invaded, and held it. Now, I deny that Texas, in her revolutionary struggle, has carried the war into the Mexican territories upon the Rio Grande, and made any permanent conquests upon the waters of that river, and I deny that the boundaries of Texas,



prior to her revolution, extended to the Rio Grande.

I have heretofore called the attention of the Senate to Humboldt's map, and to the map attached to Maillard's history of Texas, and proved by these authorities that Texas never included any part of the country on the north side of the Red river. According to Humboldt, there was at the time he wrote a large extent of country east of New Mexico, and between the Arkansas and Red rivers, not embraced by any of the Mexican or Spanish provinces at that date. The boundaries of provinces on Humboldt's map were designated by dotted lines. The gentleman from Missouri [Mr. Benton] said that these dotted lines indicated the limits of the actual settlements of the people. But in that he must be mistaken, as those dotted lines were extended from the Rio Grande over to the San Saba river, where, even up to this day, there has been no settlement of civilized men. Now, sir, I have additional evidence to prove that Texas never did extend beyond the Red river to the north, or the Nueces to the west and southwest. Mrs. Mary Austin Holly, the relative of Stephen F. Austin, one of the early settlers of Texas, and who published a map of Texas in 1839, in a work written by her as long ago as 1833, and which has passed through several editions, speaking of the boundaries of Texas, says:

"Under the general title of Texas, geographers have hitherto been accustomed to include the whole of that vast region of country extending from the Sabine river on the east to the Rio Grande on the west, and from Red river on the north to the Gulf of Mexico on the south; embracing an extent of territory double at least that comprised within the true limits of Texas proper. The cause of this geographical error is readily found in the universal ignorance of the true state of this region," &c.

Again, she says:

"Instead of a wide waste of unexplored territory, unlimited and unknown, she (meaning Texas) is destined henceforth to occupy a definite and distinguished station in the map of North America. Texas, at present, forms part of the State of Coahuila and Texas, being provisionally annexed to Coahuila until its population and resources are sufficient to form a separate State, when its connection with Coahuila will be dissolved. It is situated between 7° and 33° 30' north latitude, 93° 30' and 99° 30' west longitude. Its boundaries are the Red river, separating it from Arkansas on the north, the Gulf of Mexico on the south, the Sabine river and Louisiana on the east, and the river Nueces separating it from Tamaulipas and Coahuila on the west."

Here, sir, we have definite boundaries given to Texas by a distinguished and accomplished writer, who doubtless received a large portion of her information from Colonel Austin, and of whose map she says:

"The map compiled by Colonel Austin, and published by annex, is the first and only correct geographical information of the country that has been published."

Sir, I have a copy of this map republished in 1839, which shows that Texas never extended to the north beyond the Red river. This map shows that the Mexican State of Chihuahua crossed the Rio Grande where the 29th degree of north latitude crosses the same, and ran thence to the head of the Nueces river, from which point the map shows that Texas was bounded by the mountains and highlands separating the waters which flow into the Rio Grande from those which fall into the Colorado and Brazos, and thence to a point on Red river, at or near where the 102d degree of west longitude from Greenwich crosses the same. At this point the letter T is placed on the south side of Red river, and the

word Mexico on the north side. Thus showing that, in the opinion of Stephen F. Austin, the territory of New Mexico was bounded by Red river on the south from the point where our territorial line left the same, (to wit, the 100th degree of west longitude,) up to the 102d degree of west longitude where it crossed the river, and included land on the south as well as north bank. The lines and coloring of the map show likewise that Texas did not cross Red river. If, therefore, Austin be right; if he, who was one of the leading men of Texas, and one of its first American settlers; if this pioneer knew anything about the limits of the country in which he lived; and which I believe has erected a monument to his memory, then it cannot be denied that this bill concedes to Texas a large territory north of Red river, to which, when Austin first published his map, Texas set up no claim, and had not the shadow of a title. Now, sir, if the limits of Texas have been by any law subsequently extended over any portion of the country north of Red river, it seems to me the Senators from Texas should produce it. I have heard of none except that of the 19th December, 1836, passed by Texas herself, which I have already noticed.

Bonnycastle, a captain of Royal Engineers in the British service, in his work on the Spanish dominions in the Western Hemisphere, published in 1819, speaking of New Mexico, says:

"This country was discovered by a missionary in 1581, was finally subdued in 1644, and slightly settled by missionaries. The Rio Grande del Norte, after a course of 2,000 miles, traversing the whole length of New Mexico, Coaguila, and New Santander, enters the Gulf of Mexico. In the province of Coaguila it receives the Puerco river."

Speaking of the towns, Bonnycastle says:

"The capital of New Mexico is Santa Fé. It was founded in 1682. It has a population of 3,600 souls. The other towns of most importance are Santa Cruz, of 8,900 souls, and Albuquerque of 6,000 souls."

All these towns, I believe, are on the east side of the Rio Grande.

Now, Mr. President, it cannot be presumed that members of Congress, when the resolutions for the annexation of Texas were adopted, were ignorant of what Mrs. Holly had written, of the map Austin had published, and of the contents of Bonnycastle's and other books relative to New Mexico. With all this information open to them, what did they do? They declared "that Congress doth consent that the territory properly included within and rightfully belonging to the Republic of Texas may be erected into a new State, to be called the State of Texas, with a republican form of government," &c., "in order that the same may be admitted as one of the States of this Union." Such is the language of the first resolution for the annexation of Texas. And the second resolution which prescribes the "conditions," and lays down the "guarantees" upon which the consent of Congress was given in the first resolution, gives us the first of these conditions in the following words: "First, said State to be formed subject to the adjustment by this Government of all questions of boundary that may arise with other Governments," &c. Now, sir, in the face of these declarations inserted in the resolutions for annexation, and which Texas accepted on the 23d day of June, 1845, how can it be contended that the country up to the Rio Grande was annexed? Unless the country west of the Nueces and around Santa Fé was, at the date of



the resolutions of annexation, to wit, on the 1st of March, 1845, "properly included within and rightfully belonged to the State of Texas," there was no consent given that it should ever be included and admitted as a State of this Union. If Congress intended to give a "guarantee" to Texas that in future her boundary should be claimed and insisted on as prescribed in the act of the Texan Legislature of 19th December, 1836, such a *guarantee*, ought, and no doubt would, have been expressly inserted in the resolutions for annexation. The omission to insert any such guarantee, and the positive insertion of a clause granting power to the United States to adjust "all questions of boundary that may arise with other Governments," and the consent expressed that what *properly and rightfully belonged to Texas* might be formed into a State of this Union, amount to demonstration that no obligation was imposed on this Government to contend for the Rio Grande as the boundary of Texas. In all the geographical, historical, and legislative facts to which I have called the attention of the Senate, I find nothing but condemnation of the Texan claim.

It has been admitted on this floor that Texas had no title to the Santa Fé country at the date of her annexation to the United States, and contended that the action of this Government since that period has conferred the title which we have acquired by the treaty of Guadalupe Hidalgo upon Texas. I now propose to examine the reasons urged in support of this position, and to dispose of them with all possible brevity.

It has been urged that the United States became the agent and trustee of Texas after her annexation, and that, as such, all after-acquired title inures to the use and benefit of Texas as the *cestui que trust*. I do not admit that the United States, by the terms and conditions of annexation, came under any obligation to Texas to acquire territory for or to enlarge the *proper and rightful* boundaries of Texas. I concede that the United States did incur a moral obligation to secure to Texas all the territory "properly included within and rightfully belonging to that Republic" at the date of annexation; but I deny that there is a word to be found in the resolutions of annexation which imposes an obligation further than that. I have already shown that the proper and rightful boundaries of Texas were limited by the Nueces on the west and Red river on the north. I am willing to enlarge her boundaries, and to give her the country between the Nueces and the Rio Grande. But I do this in a liberal spirit, and not because she can demand it as a matter of right. With that enlargement of her rightful territory I think she ought to be content.

If the United States became the mere fiduciary, bound to act for Texas, for her enlargement and benefit, why is she not entitled to all California and New Mexico west of the Rio Grande, as well as those portions of New Mexico, Chihuahua, Coahuila, and Tamaulipas, lying east of the Rio Grande, and which we acquired by the treaty of Guadalupe Hidalgo? The gentleman from Maryland [Mr. PEARCE] stated some days ago that the Legislature of Texas passed an act extending her claim and jurisdiction to the Pacific ocean, which was nullified by an Executive veto. This act possessed the same validity as the act of 19th December, 1836, purporting to extend her juris-

diction to the Rio Grande. They were palpable nullities.

Now, sir, I admit, and clearly perceive, that the United States did come under an obligation as agent, trustee, or fiduciary—call it what you please—to secure to Texas all territory which properly and rightfully belonged to her. But I cannot discern the shadow of a principle upon which it can be contended that the United States are bound to secure to Texas all the countries which, at any time in her history, she may have claimed without right. A trustee or fiduciary is, as a legal principle, required to be faithful to all the duties devolved upon him by the trust, and he cannot make profit to himself out of the management of the trust beyond a reasonable compensation for his services. If he uses the money of the *cestui que trust* in the purchase of an estate, equity may consider him as holding the estate purchased for the use of the owner of the money. But all these principles are without application to the case of the United States and Texas. The United States did not purchase New Mexico with the money of Texas. The admitted fact that the United States were under obligations to secure to Texas her proper and rightful territory, cannot operate as a prohibition to the purchase of territory which never did belong to Texas, or convert the territory, when purchased into the property of Texas. A testator in his lifetime may set up a preposterous claim to his neighbor's lands. The executor of the will may purchase these lands with his own money from the rightful owner, and hold them without injustice to the heir or devisee. So, if it were conceded that the United States occupy the attitude of executor to the will of the defunct Republic of Texas, her position as such cannot, in law or reason, prevent her from acquiring to her own use additional territories, merely because that Republic had at one time asserted an untenable claim to them. The Texas boundary act of 19th of December, 1836, was nothing more than a published declaration that Texas meant to contend for the Rio Grande as her boundary, and to conquer up to that line if she could. She made no such conquest, and her declarations on paper are therefore nullities.

It has been contended that the resolutions by which Texas was annexed prove that she rightfully possessed territory sufficient lying north of 36° 30', north latitude, to form at least one State. This position rests upon that part of the third condition which provides for the formation of new States, wherein it is declared that "such States as may be formed out of that portion of said territory lying south of 36° 30' north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union, with or without slavery, as the people of each State asking admission may desire; and in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crimes) shall be prohibited." By taking this language, and separating it from the context, I admit that it furnishes ground for the inference, that the territory of Texas extended north of the line of latitude 36° 30'. But when you couple it with the provision which expressly confers the power on this Government to adjust "all questions of boundary that may arise with other Governments," its meaning is obviously this, and no more, that if, when the boundary is



adjusted, the limits of Texas are so fixed as to include territory up to  $36^{\circ} 30'$ , and further north than that line, then the provisions of the third condition, in reference to the formation of new States, shall apply to such territory. But the United States never did adjust the boundary of Texas with Mexico or any other Government. Suppose she had done so, and that the United States and Mexico had fixed upon Red river as the boundary of Texas to the north, and the Nueces to the west, is it possible to doubt the power, under the resolutions of annexation, to make such an adjustment of boundaries? Could it have been said, with truth, that such an adjustment ceded to Mexico territory which, upon the face of the resolutions for annexation, belonged to Texas? Certainly not. The first resolution, which gives the consent of Congress that the "territory properly included within, and rightfully belonging to the Republic of Texas" may be erected into a new State, and admitted into the Union, connected with the power given in the first condition of the second resolution, to adjust all questions of boundary, proves that the resolutions of annexation did not pretend to decide where the true boundaries were, or that Texas was entitled to any territory north of  $36^{\circ} 30'$  north latitude. These things were left to future adjustment; and the third condition, in its language and substance, was formed to meet contingencies just as they might turn up under the succeeding negotiations of the Government. The resort to the language of the third condition, to sustain the claim of Texas, and to enlarge her boundaries, only verifies the old adage, "drowning men catch at straws."

The treaty or convention between the United States and the Republic of Texas, entered into in 1838, which refers to the treaty between Mexico and the United States, made in 1828, and declares the same obligatory on Texas, has been relied on to sustain the title of Texas in the present controversy. The treaty with Mexico of 1828, in respect to boundary, reaffirms the treaty with Spain on the same subject made in 1819. This treaty fixes the boundary between Spain and the United States, west of the Mississippi, upon the Sabine river, from its mouth to the thirty-second degree of north latitude; thence due north to Red river; thence up the same to the one hundredth degree of west longitude; thence north to the Arkansas river; thence up the same to the forty-second degree of north latitude; and thence west to the South Sea. Now, the convention entered into with Texas in 1838, only acknowledges that the treaty of limits with Mexico "is binding upon the Republic of Texas, the same having been entered into at a time when Texas formed a part of the United Mexican States." The convention, after the preceding recital, proceeds in two articles: first, to provide for running the line from the mouth of the Sabine to Red river by commissioners, who were to meet in New Orleans in twelve months from the exchange of the ratifications of the convention; and, second, to provide for running and marking the remaining portion of the boundary line at such time thereafter as might suit the convenience of the contracting parties. The second article provided, also, that until the line from the Gulf to the Red river was run, each party should continue to exercise jurisdiction in all territory over which its jurisdiction had there-

before been exercised. This convention did not, from beginning to end, say a word about the boundary of Texas on the side of the Rio Grande as between her and Mexico. It would have been preposterous for the United States to have entered into any stipulation with Texas at that date on such subject. The convention does not say how much more of the boundary line, after running it to Red river, should thereafter be run and marked, or where it was to stop. Under this convention, Texas may just as well claim to the Pacific or South Sea as to the Arkansas. The truth is, when this convention was entered into, Texas was at war with Mexico; and it is manifest that the indefinite provision in respect to running the remaining portion of the line thereafter was intended to embrace that portion of the boundary of Texas on Red river which properly belonged to her, and about which there could be no contest, and any additional extension of boundary to which she might, by conquest and the events of the war, become entitled. She made no conquests on the side of New Mexico; and how the recital that the treaty with Mexico was "binding upon the Republic of Texas" can have the effect to extend her territory to the Rio Grande, seems to me a singular conception for a sound mind.

It has also been contended that the act of Congress approved May 13, 1846, providing for the prosecution of the war with Mexico, admits the title of Texas to the Rio Grande by necessary inference. There is in that statute not a word about Texas or her territory. There is a notorious preamble to the act in these words, "whereas, by the act of the Republic of Mexico, a state of war exists between that Government and the United States." Were I an expunger I should go for drawing black lines around this preamble. What act of Mexico caused the existence of the war? The statute does not inform us. I affirm that it was the unconstitutional conduct of President Polk in causing an army of the United States to march into and take possession of Mexican territory that caused the war; and this I endeavored to prove in a speech delivered upon this floor on the 10th day of February, 1848. I shall not now repeat the facts and arguments of that speech. It is certain that the statute of 1846 does not define the particular act of Mexico which caused the war. If we look into the President's message of December 21, 1845, and also that of the 11th May, 1846, recommending Congress to recognize the existence of war and to provide for its energetic prosecution, we shall find various acts of Mexico enumerated, which in the opinion of the President, justified us in making war upon Mexico. In the latter message he says: "Had we acted with vigor in repelling the insults and redressing the injuries inflicted by Mexico at the commencement, we should doubtless have escaped all the difficulties in which we are now involved." The notorious preamble does not discriminate between these various "insults." The truth is, that the President on the 13th January, 1846, ordered General Taylor to march from Corpus Christi to the Rio Grande. On the 11th of March following, the army moved, and on the 23th of the same month arrived on the left bank of the Rio Grande or del Norte opposite to Matamoros. This was an act of invasion and war upon a territory then in the actual possession of Mexican citizens. It was so



considered by the Mexican officers. Whether hostilities existed by the act of Mexico or the unconstitutional act of Mr. Polk, late President of the United States, or both combined, how is the title of Texas to New Mexico affected the one way or the other by such act? Suppose I concede that "American blood was shed on American soil" in the vicinity of Matamoros, within what constituted at one time a portion of the territory of the Mexican State of Tamaulipas, does that allow any rational inference in favor of the Texan claim to Santa Fé, situated at a distance exceeding a thousand miles? It should be remembered that Tamaulipas was separated from New Mexico by the intervening States of Coahuila and Chihuahua, both of which occupied portions of the east bank of the Rio Grande. How the breaking out of war in Tamaulipas, no matter by whose act, can prove title to New Mexico, any more than it can to Yucatan or Patagonia, I cannot perceive.

It has been gravely contended that the United States are now estopped to deny the title of Texas to the Santa Fé country. An estoppel is defined to be "an impediment or bar to a right of action arising from a man's own act." It is said to be of three kinds, viz: by matter of *record*, matter in *writing*, and matter in *pais*. Where, by either of these modes, a man has willfully and knowingly committed himself to a falsehood, it becomes sound policy, both for his own punishment and for the repose and safety of others, that he shall be estopped to allege or speak the truth contrary to his own deliberate act. I doubt the propriety of applying this doctrine of the books, designed to furnish a rule to govern individual transactions, to the political affairs of nations, and especially to those of republics. But let us yield the point, and say that it is applicable. I then call for the *record*, the *writing*, or matter in *pais*, which estops the United States and prevents her denying the title of Texas to New Mexico. Show me how the mouth of the nation has been shut, so that it can or should not now speak the truth. Allow me to cluster together various matters relied on as establishing the estoppel, and to refute the whole at once.

The instructions given by the Secretary of War to General Taylor, dated June 15, 1845, in which it was said, "the point of your ultimate destination is the western frontiers of Texas, where you will select and occupy on or near the Rio Grande such site as will consist with the health of the troops," &c., and the declarations made by Mr. Donelson, our Minister, pending negotiations with Texas; and the declarations of Mr. Trist, pending the negotiations with Mexico relative to the limits of Texas; and even the *stump* speech of General Kearny to the people of Santa Fé, together with all the declarations made from time to time, in his various messages to Congress and otherwise, by President Polk, favorable to the title of Texas, constitute the matter of estoppel generally relied on.

Now, sir, the fallacy of all this consists in conceding a right to the President, his Ministers, his Secretaries, or his Generals—those who are acting under his orders or influence—to decide a territorial question, and to make their decision binding upon the United States. I deny that the President, or any of his subordinates in the Executive branch of the Government, possesses a particle of author-

ity to settle the disputed boundary line of a State or of a Territory of the United States, except that which may grow out of his treaty-making power. Such declarations and expressions of opinion in regard to titles and boundaries by the officials of the Executive Department may be entitled to the respect which their stations and general intelligence are calculated to generate, but that they can operate as estoppels, or as obligatory edicts, so as to bind all the coördinate departments, is a political solecism which can never take root in a Republic governed by a written Constitution, which divides the powers of Government into separate departments, whose functions are to be discharged by different bodies of magistrates. Such a doctrine may suit the monarchies of the Old World, where the entire sovereignty is concentrated in the person of the Prince. His *ipse dixit* to-day may bind or estop him to-morrow, and become his rule of action. But with us each department must act upon its own judgment. Ours is a Government of checks and balances; and if the President's word or declaration is to control the other departments upon the ground of estoppel, we had better abolish them, and get clear of expensive and useless establishments. Sir, President Taylor has told us that he had no power to decide and fix the limits of Texas. President Fillmore has, in substance, said the same thing. Every Senator, by his action on the various measures which have been suggested for the settlement of the boundaries of Texas, concedes that it has become a legislative question. How, then, are we estopped by the declarations of the past Administration of Mr. Polk? Suppose one Administration contradicts another, will not such conflict set the matter at large and relieve from the estoppel? We have a notable case in Mr. Polk's declaration in his inaugural address that "our title to the country of the Oregon is clear and unquestionable." Congress would not be bound by that declaration. Neither are we bound by his declaration that the Texas which we annexed was bounded by the Rio Grande, from its mouth to its source.

Mr. President, if the action of the Executive in past time is to control us in our present legislation, it would be well to look with some minuteness into what transpired about the date of the annexation of Texas. It so happens that this very question of the Texan boundary was discussed by the Administration of Mr. Polk in the year 1845. In the instructions given by Mr. Buchanan to Mr. Slidell, the minister sent by Mr. Polk to Mexico, it is said:

"In regard to the right of Texas to the boundary of the Del Norte from its mouth to the Paso there cannot, it is apprehended, be any very serious doubt."

Again he says:

"It may, however, be contended on the part of Mexico that the Nueces, and not the Rio del Norte, is the true western boundary of Texas. I need not furnish you arguments to controvert this position. You have been perfectly familiar with this subject from the beginning, and know that the jurisdiction of Texas has been extended beyond that river, and that representatives from the country between it and the Del Norte have participated in the deliberations of both her Congress and her convention."

After this argument in favor of the title of Texas to the country between the Nueces and the Rio Grande, below El Paso, Mr. Buchanan says:

"The case is different in regard to New Mexico. Santa Fé, its capital, was settled by the Spaniards more than two centuries ago; and that province has been ever since in



their possession and that of the Republic of Mexico. The Texans never have conquered, or taken possession of it; nor have its people ever been represented in any of their legislative assemblies or conventions."

Nothing can be more conclusive than this to show that, in the opinion of Mr. Polk and his Secretary of State, Texas had no title to the Santa Fé country on the 10th day of November, 1845, that being the date of Mr. Buchanan's letter of instructions. All this is further shown by the sums which Mr. Slidell was directed to offer for the purchase of New Mexico. He was directed to give \$5,000,000, and to assume all the debts due our citizens for spoiliations, if thereby he could induce Mexico to cede to the United States, not to Texas, the whole of New Mexico on both sides of the Rio Grande. But in case Mexico was indisposed to cede that part of the province west of the Rio Grande, then Mr. Slidell was authorized to assume the payment of the debts due our citizens if Mexico would cede to us that portion lying east of the Rio Grande. These debts have been estimated at \$6 291,536, but probably in justice do not exceed \$5,000,000.

But Mr. Slidell's mission failed. He accomplished nothing. President Polk's unconstitutional conduct brought on a war, and then, after an elaborate attempt at vindication in the annual message of December 8, 1846, referring to the act of the Legislature of Texas claiming the Rio Grande from mouth to source as her boundary, he says:

"This was the Texas which, by the act of our Congress of the 29th of December, 1845, was admitted as one of the States of our Union."

It should be borne in mind that the resolutions for the annexation of Texas were approved on the 1st of March, 1845, and that the act of the 29th December, 1845, was the consummation of the resolutions of March preceding. The palpable inconsistency of the change of position in respect to the Texan title needs no comment.

But, sir, I do not agree with Mr. Secretary Buchanan that "the right of Texas to the boundary of the Del Norte, from its mouth to the Paso," could not be seriously doubted. Although I am willing to cede to Texas the country between the Nueces and the Rio Grande below New Mexico, I nevertheless believe she cannot demand such cession as matter of right. Texas never attempted to form counties, and extend her jurisdiction over any part of the Santa Fé country until last winter. She then passed laws to form counties in this country, and since then "a certain Mr. Neighbours" was sent into the territory to organize these new counties. He has not succeeded. Nor did Texas extend her jurisdiction to the lower Rio Grande until aided by the army of the United States.

In April, 1834, when Coahuila and Texas formed one of the States of the Mexican Union, and before the revolution of Texas commenced, (see page 319 of the Laws of Coahuila and Texas,) a new municipality was established and named San Patricio. It was situated in the Department of Bexar, and by the law the following limits were assigned it:

"Commencing on the left bank of the river Nueces at the boundary of the ten literal leagues, [believed to be ten leagues from the coast, within which foreigners were not permitted to settle,] and following said line eastward to within the distance of ten leagues of La Bahía del Espíritu Santo; thence in a straight line to strike the junction of the river Medina with that of San Antonio, and following the right bank of the latter as far as the crossing of the old road leading from Rio Grande to Bexar; thence following said

road as far as the river Nueces, and thence to the place of beginning."

Thus we see that the municipality or county of San Patricio, in its creation, lay on the east side of the Nueces, and, although it does not expressly call to run with the meanders of that river from its upper to its lower corner, no one can doubt that such was the received construction of the act establishing the county, when it is known that the State of Tamaulipas at that date bound upon the west bank of the river; and hence the State of Coahuila and Texas could not legislate over any territory within Tamaulipas. But were it even conceded that Coahuila and Texas might so legislate, still the act passed for the creation of San Patricio must take a straight line from the upper to the lower corner upon the river, if the meanders were departed from; and by thus running ninety-nine hundredths of the country between the Nueces and the Rio Grande would be left in the State of Tamaulipas, without the jurisdiction of Coahuila and Texas.

Now, sir, it is curious to trace the legislation of Texas and see how she extended her jurisdiction over this part of Tamaulipas as it was conquered by the arms of the United States. That Texas never conquered it is abundantly evident from her own laws. On the 5th of June, 1837, Texas passed a resolution "relating to elections for depopulated districts," providing in substance that the voters of such districts might hold their elections in the county where they were temporarily residing, until such time as they could return with safety to their homes. What districts were thus depopulated? The question is answered by the laws of Texas, which in 1845 repealed the resolution "relating to elections for depopulated districts," so far as it operated on the counties of Refugio and San Patricio. Refugio lies to the northeast of San Patricio. Thus we have positive evidence that Texas, instead of extending her conquests and holding the country west of the Nueces, actually admitted that two of her counties east of that river had become depopulated by the events of the war, so that her regular elections could not be conducted. In 1838, a Colonel Kinney, according to a book published by Captain Henry, one of the officers who belonged to General Taylor's command, established a trading post at Corpus Christi, and carried on a contraband trade from that point with the people on the Rio Grande. Kinney, it seems, by his own energy, bravery, and an occasional *douceur* paid to the Mexican officers, was enabled to maintain himself at Corpus Christi, notwithstanding the depopulation of the counties of Refugio and San Patricio.

On the first of February, 1845, Texas for the first time, so far as I can ascertain from her legislation, undertook to aid Colonel Kinney (who, if my information be correct, had taken the oath of allegiance to the Mexican Government) in defending Corpus Christi. On that day an act passed authorizing H. L. Kinney to raise a company of forty men "for the purpose of protecting the settlements of Corpus Christi and its vicinity." It is stated in this act that a "company now in service at Corpus Christi, under the order of the President," should be paid for their services "from the 28th November, 1844, until the 28th January, 1845." Fifteen thousand dollars were appropriated for the accomplishment of the objects of the



act. The money was to be placed in the hands of Kinney and disbursed by him, but he was to receive no compensation for his services.

Mr. HOUSTON. I am informed that it was against Indian depredations that these defences were made. The same Indians, or others of the same tribe, yet depredate on the place at this day, and it was for defences against them. They have made at different times four or five incursions in that locality, and either slaughtered the inhabitants or driven away their stock. There were claims existing during the last month for hundreds or thousands of heads of cattle driven off by the Comanches.

Mr. UNDERWOOD. I have no doubt of it; but if the gentleman will examine Captain Henry's book, he will find that Colonel Kinney wanted forces to repel marauders from the Rio Grande as well as Indians.

Mr. HOUSTON. I will inform the honorable gentleman that marauders and contraband gangs have always been passing and repassing, and committing depredations, but there has been no invasion of any force authorized by the Government. As for Mr. Henry, he may be a very respectable gentleman, but we have never heard of him in those parts.

Mr. UNDERWOOD. Captain Henry is or was an officer of the army. He wrote well, and I presume he fought well. I infer he was a gentleman of good character, from the epaulets on his shoulder and the rank he bore. Certainly it is not my fault that the gentleman has never seen or read his book. But I have other evidence, to which I will call the attention of the Senator from Texas. In the Summer of 1839, a Mexican named Canales attempted to establish the Republic of the Rio Grande, by uniting the States of Tamaulipas, Coahuila, and Durango. For this purpose he raised a small army, and fixed his headquarters at Laredo, on the east bank of the Rio Grande.

Mr. SHIELDS. Laredo is not entirely on the east bank.

Mr. UNDERWOOD. It is so represented on the map.

Mr. SHIELDS. If the Senator will allow me, I will state the fact. I have been at Laredo, and it is a town on both sides of the Rio Grande.

Mr. UNDERWOOD. Ah! that explains it.

Mr. SHIELDS. I was in Canales's quarters, and he was not on the Texan side of the Rio Grande, but on the Mexican side. When I was there it was a little town of about four thousand inhabitants, situated on both sides of the Rio Grande.

Mr. UNDERWOOD. I never was there. The map represented it on the east side of the river, and until now I had not heard that any part of it was on the west side.

Mr. HOUSTON. As the Senator has referred to me, I will state to him that there was an incursion into Texas as late as September, 1842. The invaders marched as far as San Antonio, but were repulsed and fled away. They renewed the invasion in the Fall of 1842, and were again driven off. They had a pretty narrow escape, and they never returned. Subsequently to that time, in the Fall of 1843, Texas invaded the settlement on the west side of the Rio Grande.

Mr. UNDERWOOD. If Texas did invade the settlement west of the Rio Grande, she made no

permanent conquest. Who headed her army, and how many rank and file he commanded, we are uninformed. But, sir, I will proceed with my statement in regard to Canales. In April, 1840, he was defeated by General Arista, at Laredo, and thereafter retreated into Texas. In the Fall following, after making arrangements with the government of Texas to aid him, he returned to the Rio Grande with a view to attack Matamoros; but, instead of accomplishing his plans, he proved himself a traitor to his engagements, by signing a convention with the Mexican General Reyes. As soon as this came to the knowledge of his allies—the Texans—they fled in all directions back to Texas, after part were surprised and captured. (See Maillard's History of Texas, p. 200.)

Mr. HOUSTON. Will the Senator permit me to interrupt him? I know he wants to get at the facts, and I therefore rise occasionally to correct an error or to establish the truth of history. This fellow Canales was an insurrectionary chief, I believe, of no great consequence; however, he resisted the Government and kept up a predatory war. Robbing from settlements in Mexico, he was driven into Texas in 1840. At that time I was not in office; I was in private life, and had nothing to do with public affairs. The Government of Texas could not be compromised by the agreement of any individual then in the possession of power, because no such power is delegated by the constitution, and any acts of that sort were irregular and unconstitutional. A band of men, under the command of Colonel Jerdan, I believe, volunteered, and, uniting with Canales, marched into the interior of Mexico, or to Saltillo, I think, and there Canales and his band deserted them and endeavored to betray them into the hands of the Mexicans. However, the major part of them made their escape, and returned to Texas, disapproved and condemned by the community generally; and what agency individuals in possession of the Government of Texas might have had, either by connivance or participation in the act, I do not know; but I do know that it offended the moral sense of the community, and a very great number looked upon it with indignation as a wanton participation with an abandoned man in endeavoring to produce commotion in Mexico. The policy of Texas was to preserve harmony in the interior of Mexico, and keep tranquillity at home, and advance her agricultural, commercial, and social interests.

Mr. UNDERWOOD. I am happy to have any statement made that may elucidate any part of these transactions. My object in adverting to these things is to show the unsettled state of affairs between the Nueces and the Rio Grande, and that it could not be said with propriety that Canales or Texas held actual possession of the country by conquest. But, sir, the legislation of Texas, both at a prior and subsequent period, proves the same thing.

In May, 1833, Texas provided by law for removing and trying criminals apprehended or guilty of crime in the depopulated counties of San Patricio, Victoria, Goliad, and Refugio.

In January, 1845, Texas passed a law relieving the citizens of the depopulated counties of Refugio, San Patricio, and Goliad from the payment of direct taxes up to that date; provided that the head of a family should not be relieved from pay-



ing tax on the excess of the land owned above one league, or labor, and single persons on the excess above the third of a league.

On the 24th June, 1845, Texas passed an act to "establish certain mail routes therein mentioned, and for other purposes." The first section of this act establishes a mail route from Bexar to Laredo, on the east bank of the Rio Grande, and from Corpus Christi to Point Isabel, near the mouth of the Rio Grande. The second section enacts that all that part of the Republic lying between the Nueces and the Rio Grande rivers, from the Gulf to the northerly line of the Republic, not now embraced within the defined limits of any country, be and is hereby added to the county of San Patricio, and that this act take effect from its passage. On the day before this act was passed Texas accepted and agreed to the terms proposed in the resolutions for annexation. From this act it is manifest that, even in the opinion of the Texan Legislature, there was some country between the Nueces and the Rio Grande which had not been embraced within the defined limits of any county, and over which Texas had exercised no civil jurisdiction prior to the date of this law.

On the 18th of April, 1846, Texas passed an act creating the county of Nueces. The act declares that all that part of San Patricio county lying between the Rio Grande and Nueces rivers, shall constitute the new county named Nueces. It further declares that "a direct line, running 'from the junction of the Cibolo or San Bartolo creek to the Rio Frio, at a point thirty miles 'above its junction with the Nueces, thence in a 'direct line to the town of Laredo, shall be the dividing line between the counties of Nueces and 'Bexar from the river Nueces; and from the above 'boundary of Nueces (county) at Laredo the river 'Rio Grande shall be the western boundary of the 'county of Bexar."

The second section of this act makes Corpus Christi the county seat of Nueces county.

On the 29th of April, 1846, an act was passed "to provide for the organization of the counties of San Patricio and Nueces." This act in substance provides for the election of a chief justice, county commissioner, sheriff, clerk, &c., for each county, on the second Monday of July next after its date.

Mr. SHIELDS. With the permission of the gentleman I will make a statement, because I believe he wishes to get at the truth. Now, as I understand it—and I have passed through that country—when Texas passed an act extending her jurisdiction up the river, there was the county of San Patricio, which lay between the Nueces and the Rio Grande. That county had been already established by Texas, was within her jurisdiction, and it extended from the Nueces to the Rio Grande at that time. The act to which the gentleman from Kentucky refers, as I understand it, merely extended the jurisdiction of Texas further up and along the Rio Grande, and added additional country to this county of San Patricio. Texas afterwards changed this county of San Patricio, with additional country, into the county of Nueces, and then extended the county of Bexar to Laredo.

That to which I wished to call the gentleman's attention is this: This county of San Patricio was given by Mexico to an Irish colony; it had already been organized by Texas, and was a part of the

Texan Republic before this act, and extended from the Nueces to the Rio Grande. I venture to say that nothing will be found to contradict this.

Mr. UNDERWOOD. I have endeavored, Mr. President, to understand this subject. Its examination has cost me much labor. The laws of Coahuila and Texas, when they formed one State, have no index of their contents alphabetically arranged. Owing to that circumstance it is possible I did not find everything bearing on the subject. But, from what I did find and have exhibited, it is clear that San Patricio county had its two western corners upon the Nueces river, and called to run from the one to the other; and I believe, for the reasons assigned, that it was intended to make the river the line from corner to corner. But if a straight line was intended, whether that would cross the river at all, or whether it would cross it a dozen times, so as to leave a bend first on one side and then on the other, I know not. But I have shown you how and when San Patricio county was created, how and when Texas undertook to add the territory up to the Rio Grande to San Patricio, and how and when the new county of Nueces was formed, and how and when the Rio Grande was declared to be the boundary of the county of Bexar; and it appears, from the dates, that Texas undertook, after she had consented to the resolutions of annexation, to enlarge her jurisdiction by attempting to annex by *law* instead of *conquest* the country upon the Rio Grande.

She did not attempt to form the county of Nueces and declare the Rio Grande the boundary of Bexar until after General Taylor had invaded the country and planted his cannon on the bank of the river opposite Matamoros. She did not again organize the depopulated county of San Patricio until General Taylor had marched from Corpus Christi for the Rio Grande. Indeed, before the day fixed by law for the election arrived, the battles of Palo Alto and Resaca de la Palma had been fought.

Mr. HOUSTON. Will the gentleman permit me to interrupt him a moment?

Mr. UNDERWOOD. Certainly.

Mr. HOUSTON. As early as 1835 San Patricio existed on the west of the Nueces. It was represented in the consultation of 1835, which commenced in October of that year. It was represented there by Colonel Powell and Mr. McMullen. That section of country continued to be represented until the Mexicans had driven back our people and depopulated their counties, or municipalities, as they were originally called. They were represented by citizens of other counties until Texas was enabled to repossess herself of that territory from which her citizens had been driven.

San Patricio was settled by a colony of Irish. They were driven back during the invasion, but previous to that time they had been represented in the consultation of Texas. Mexico never asserted any title adverse to that of Texas to that portion of territory. They made occasional incursions. The last incursion or invasion that was made by either party was by the army of Texas, when they passed the Rio Grande and took Guerrero and some other places. But Texas has never sent a hostile army across that boundary, never made any incursion since 1843.

Mr. UNDERWOOD. My information, Mr. President, has been obtained in the manner stated. The laws must prevail. The State of Tamauli-



pas, as well as the State of Coahuila and Texas, had her colonization laws. Mexico, under her Emperor and by her Supreme Legislative Junta, or Congress, prescribed regulations by which foreigners might settle and obtain lands, and required the various States in their colonization laws to conform to the regulations thus prescribed. I do not deny the facts stated by the gentlemen from Illinois and Texas, relative to the settlement of an Irish colony between the Nueces and Rio Grande; and these colonists, when the revolution in Texas began, may have taken part with Texas and sent representatives to her consultations and to her Legislature. But what of all that? Do not the facts that I have produced—facts admitted by the laws of Texas, showing that the country became depopulated by the war—still stand? My object is to show that Texas can set up no title by conquest; and to that extent I think the argument is unanswerable.

But, sir, I will now pay my respects to an argument often urged by one of the Texan Senators, [Mr. Rusk,] in favor of the claim of Texas. He seems to think that Disturnel's map which was attached to the treaty of Guadalupe Hidalgo, settles the question in favor of Texas. The treaty refers to that map in the following terms:

"The southern and western limits of New Mexico mentioned in this article are laid down in the map entitled 'Map of the United Mexican States as organized and defined by various acts of the Congress of said Republic, and constructed according to the best authorities. Revised edition, published at New York, in 1847, by J. Disturnel.'"

This map was referred to as designating and pointing out a certain line or lines of New Mexico before mentioned in the article. Not a word is said about the limits of Texas. The boundaries of Texas were not the subject of consideration. Now, when the map of Disturnel is referred to for a single purpose—to wit, in order to point out the southern and western limits of New Mexico, so far only as these limits were thereafter to be the boundary of the United States—I do not see that it could be used with propriety to establish any other question of boundary, beyond the weight it ought to have from the intelligence of its compiler and maker. Certainly it can derive no additional authority from the treaty, except in regard to the matter for which the map was referred to. The fact that this map was attached to the treaty in order to show a line of boundary between the United States and Mexico does not establish the bounds of Texas any more than it establishes the limits of Durango or Arkansas. But take the map in connection with the language of the treaty, and in my judgment it operates conclusively against every position the Senator from Texas has heretofore endeavored to establish by it. The treaty provides that the future boundary between the United States and Mexico shall run from the mouth of the Rio Grande up that river to the point where it strikes the southern boundary of New Mexico. The call for a point in the southern boundary implies that a portion of such boundary lay eastwardly and westwardly of that point. If New Mexico had cornered upon the Rio Grande, the language of the treaty should, and no doubt would, have called for the corner instead of a point in the line. But the fact being clear that New Mexico crossed the Rio Grande, by a line running very nearly east and west, and which line is plainly marked

upon the map, the language of the treaty conforms to the fact, and calls for a point in the line. The inference which the Senator from Texas wishes to draw from this map is, that no part of New Mexico at the date of the treaty lay east of the Rio Grande, but that it was all Texas at the time.

Mr. RUSK. Will the honorable Senator allow me to correct him for a moment?

Mr. UNDERWOOD. Certainly.

Mr. RUSK. Has the honorable Senator the fifth article of the treaty of Guadalupe Hidalgo before him? If he has, and will read it, he will find that the line runs up the Rio Grande till it strikes the southern boundary of New Mexico, and thence it runs along the whole southern boundary of New Mexico. And if the whole means only half, it is not there.

Mr. UNDERWOOD. I have it all by heart, sir. I know every word in the fifth article of the treaty, and with a little patience I will read all that bears upon the question, and explain it. After arriving at the southern boundary of New Mexico, as I have stated, the language of the treaty is to run "thence westwardly, along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence northward, along the western line of New Mexico, until it intersects the first branch of the river Gila," &c. Now, sir, here is the language of the treaty which the Senator calls for; and what does it mean? What idea do the words "thence westwardly, along the whole southern boundary of New Mexico," convey? No other than that from the point where you strike the southern boundary, in going westwardly, you are to run along the *whole* and not a *part* of the southern boundary lying *west* of the starting point. The line from the western termination, northward, was only to go a part of the way—to the Gila, and no further; but the line from the Rio Grande, "westwardly," was to go the whole length of the southern boundary of New Mexico on the west side of the river, "to its western termination." This idea is well and forcibly expressed. The negotiators were not thinking about the southern boundary of New Mexico east of the Rio Grande. The error of the Senator consists in this: that when negotiators speak of the whole southern boundary lying "westwardly," or west of the river, he construes their language to mean that there was no part of the southern boundary on the east of the river. The conclusion is a *non-sequitur* from such premises. I have had much to do with running boundaries, both in and out of the courts of the country, as judge, lawyer, and surveyor; and if the language of the treaty shall receive that construction which would be put upon it, were it applied to the ordinary transactions among men, it seems to me that there cannot well be a difference of opinion as to its true import and meaning.

But, Mr. President, does this map of Disturnel lay down New Mexico as situated altogether on the west side of the Rio Grande? Not at all, sir.

Mr. RUSK, (in his seat.) Yes, sir.

The PRESIDENT. Order! order! The speaker must not be interrupted.

Mr. UNDERWOOD. Not at all. The Senator is utterly mistaken. The map lays down New Mexico or Santa Fé on both sides of the river as plainly as it is possible to do it. It is done in the



Spanish language. On the west side of the river is printed "Nuevo Mejico," and on the east side, "O' Santa Fé." Thus showing, beyond doubt, that the maker of the map intended to say that the country named "New Mexico or Santa Fé," (that being the translation,) was situated on both sides of the river. But this matter is also evident from the fact that the boundary of New Mexico or Santa Fé is dotted and laid down running eastwardly from the point where the Rio Grande intersects it, to the north-west corner of Texas; and then the line between "New Mexico or Santa Fé" and Texas is plainly laid down, dotted and colored until it reaches Red river, and thence it is extended down the same and colored until it reaches the old boundary line of the United States, at the point where the hundredth degree of west longitude crosses the river. From the north-west corner of Texas, her original boundary is plainly laid down and colored, showing that it runs southeastwardly from the north-west corner to the head of the Nueces, and thence down the same, with its meanders, to the Gulf, and upon the line thus designated is plainly printed the words "original boundary of Texas in 1835." Then from the mouth of the Rio Grande to its source there is a colored line drawn, and upon it is printed "boundary claimed by the United States." The map being published in 1847, in the midst of the war illustrates the condition of things in respect to the boundary at the date of its publication. It shows what was Texas in 1835, before her revolution, and it shows the claim put forward by Mr. Polk after he had involved the United States in war. If the claim of boundary, so asserted by him, and the subsequent acquisition of the country by treaty, makes it the property of Texas, upon any ground of trust or estoppel, let it be so. I have already endeavored to refute the claim put forth on these grounds, and I have now shown, I think, that no reasonable inference in favor of the claim of Texas can be drawn from the map of Disturnel, as connected with the treaty.

It has been argued that the United States will be disgraced if we now refuse to concede to Texas the boundary of the Rio Grande, because President Polk claimed that the territory east of that river, from its mouth to its source, was annexed to the United States, and asserted that American blood had been shed on American ground. This position seems to rely for its support upon the sentiment that it is more honorable to persevere than to confess a blunder and retract. I know that those who regard political inconsistency as the damning sin of politicians will readily concede that backing out is disgrace. I, however, admit no such tenet in my creed. On the contrary, I hold that he is the bravest and most honorable of men who can soonest admit and retract an inconsistency or a fault. Whilst it is cowardice to back out in a just cause, it is the sublime in human heroism to retrace our steps whenever we find the path is wrong. The disgrace consists in starting wrong. The atonement and the honor consist in open, manly confession and reform. But, sir, I deny that the honor of the people of the United States is in the least sacrificed by exposing the errors and inconsistencies of their highest public functionaries. Indeed, sir, I regard it as one of the highest honors of the people to detect, expose, and repudiate the sinister movements of their political

leaders. I trust they are ready to grasp that honor by repudiating the declaration that the late war with Mexico existed "by the act of the Republic of Mexico." This war has resulted in the dismemberment of that Republic, and, as a further consequence, unless wisdom and justice avert, its end may be the destruction of our own. We do not yet see the end.

But, Mr. President, I must call your attention to another subject, and conclude. The bill proposes to pay the \$10,000,000 by creating a stock, to bear five per cent. interest, payable half-yearly, redeemable at the end of fourteen years. We shall thus be required to pay seven millions of interest before we can discharge the principal, although the government may have the means of paying the debt long before the expiration of fourteen years. What possible motive can there be for this, unless it be to benefit stock-jobbers and capitalists? If we are to pay the money, we should be allowed to do it as soon as we have the means. I am opposed to contracting debts without absolute necessity requires it; but, when contracted, I wish to secure the privilege of obtaining a discharge as soon as possible. I see no necessity for contracting this debt, and still less for postponing its payment fourteen years, if sooner able to pay.

It is provided, however, that five millions of this stock shall not be issued until the creditors of Texas, holding her bonds "for which duties on imports were specially pledged, shall file at the Treasury of the United States releases of all claims against the United States for and on account of said bonds." Here we have a strong implication, if not a direct admission, that the United States are liable for that portion of the debts of Texas "for which duties on imports were specially pledged." I deny any such liability. I admit that it is a sound principle of international law, that when one nation annexes another in a manner so as totally to absorb its sovereignty and to destroy all its powers of action as a separate political body, then whatever debts the annexed nation or community owes, rightfully devolve upon the nation making the acquisition. Texas, by her annexation to the United States has not been absorbed in this manner. Her sovereignty and separate existence as a political body have not been destroyed. She still exists as an organized community, with a government curtailed in its powers so far as the Constitution of the United States imposes restrictions upon the States of the Union, but possessing the power of contracting debts, and of levying taxes to pay them. As Texas yet retains the contracting and taxing powers of a State, I do not see why we are bound to pay her debts contracted previous to annexation any more than those contracted since. The Constitution of the United States, as our motto (*E pluribus unum*) imports, forms one government out of many, for certain general purposes. These purposes are separate and distinct from the local affairs of the States, among which their debts are to be classed. The nations of the earth (as I trust they will do at no distant day) may, by treaty stipulations, constitute a tribunal to settle disputes and controversies likely to involve them in war. Such a tribunal would give the rule to be observed in the cases falling within its jurisdiction, and to that extent would be a government over the na-



tions which erected it. But would the fact that the parties to the treaty had united in forming a tribunal to govern them in certain cases, very limited in their number and nature, render either responsible for the debts of the other? Certainly not. And if the tribunal so created were vested with power to raise money and form a common treasury, in addition to its power of settling disputes, the money raised must be applied to the purposes specified in the treaty, and could not rightfully be taken for any other purpose.

This treaty government among nations, for the purpose of securing the peace of the world, although not analogous in all respects to our own Government under the Constitution of the United States, is nevertheless an illustration of what I conceive to be the proper operation of our system in regard to the debts and liabilities of the several States of the Union.

The bill under consideration does not intimate that we are liable for the whole debt of Texas. We should be liable for the whole if the international principle which I have admitted had any application. The fact that the bill only provides for a part—that for which duties were pledged—is conclusive proof that our liability is placed upon some other ground. It is manifest from the bill that our obligation to pay a part of the Texan creditors is founded upon a pledge of duties on imports to discharge certain bonds. A pledge among individuals is the actual delivery of a thing, to be held until the debt for which the thing—the property—was pledged, is paid. Duties on imports not yet collected are incapable of being pledged, in the sense of a pledge between individuals. A law, therefore, which provides for borrowing money, and upon its face says that duties on imports shall be pledged to pay it, is nothing more than a promise on the part of the government to apply certain expected revenues to the payment of a certain debt. Texas can tax all merchandise introduced into the State as heavily now as she could before annexation. The form and manner of doing it is changed, but the substance remains. The stores of our merchants in Kentucky are taxed. The question is, does her surrender of the right to tax in a particular manner, by duties on imports, impose either a legal or moral obligation on us to pay her debts, or any of them? A legal obligation is one that can be enforced by a known remedy provided by law. There is no such remedy, and hence no legal obligation. Are there any considerations, in conscience or morals, which should bind us to pay for Texas? When she consented to accept our terms of annexation, it was expressly agreed that she should retain all the vacant and unappropriated lands lying within her limits, to be applied to the payment of her debts and liabilities, and “in no event are said debts and liabilities to become a charge upon the Government of the United States.” How is it that conscience and morals, in the face of this positive agreement to the contrary, now bind us to do that which by the contract we were not to do? Were our statesmen who made the contract of annexation incapable of comprehending or of feeling the requirements of conscience and morals? They either knew at the time they voted for the resolutions to annex Texas, that a moral obligation would require us to pay her debts and liabilities, or they were insensible to the existence of any such obli-

gation. If the first, then their stipulation that the United States were in no event to be charged with the debts of Texas could have been nothing short of political chicanery, inducing their confiding constituents to believe they were never to be burdened with the debts of Texas, when they well knew that moral obligations, which with an honorable, just man or nation are as efficient as legal obligations, would ultimately require the United States to pay these debts. If the last, if the moral obligation was so faint that it could not be seen when the resolutions of annexation were passed, what new lights have so illuminated our consciences since the termination of the Mexican war as to enable us now to perceive a duty which no one dreamed of in the beginning? Can it be that interested creditors of Texas, despairing of getting anything from her, have been busily engaged in manufacturing public sentiment? Have they subsidized the press and paid for puffs? Have they partially sold and distributed their claims, and thus enlarged the number of persons operating on Congress? If any such means have been resorted to, with a view to operate on public sentiment, either in or out of Congress, I trust they will fail of accomplishing their object. I have examined the yeas and nays upon the passage of the resolutions for annexation through the Senate, and I find that, although the members of the Whig party generally voted against them, yet they as well as their opponents equally committed themselves against the payment of the debts of Texas. The resolutions sent to the Senate by the House contained the stipulation that the United States were in no event to be charged with the debts of Texas. This proposition was sustained on its final passage by the vote of the following Senators: Allen, Ashley, Atchison, Bagby, Benton, Breese, Buchanan, Colquitt, Dickinson, Dix, Fairfield, Hannegan, Haywood, Henderson, Huger, Johnson, Lewis, McDuffie, Merrick, Niles, Semple, Sevier, Sturgeon, Tappan, Walker, and Woodbury—26.

Those who voted against the resolutions of annexation were: Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Foster, Francis, Huntington, Jarnagin, Mangum, Miller, Morehead, Pearce, Phelps, Porter, Rives, Simmons, Upham, White, and Woodbridge—25. It so happens, however, that the Journals show that Mr. Foster moved to amend an amendment proposed by Mr. Walker, and a portion of Mr. Foster's amendment was in these words, “that the public debt of Texas shall in no event become a charge upon the Government of the United States;” and upon the yeas and nays being taken, the following Senators voted for the proposition: Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Evans, Foster, Francis, Huntington, Jarnagin, Johnson, Miller, Pearce, Phelps, Porter, Rives, Simmons, and Upham.

It thus appears that large majorities of both parties equally favored the proposition that the Government of the United States was not to be charged with the debts of Texas. Although Mr. Foster and the Whigs generally desired to change the propositions as they came from the House, still it is shown by their amendments that they retained in substance the original proposition that the United States were not to be liable for the debts of Texas. I exhibit these facts, so that Senators who were here when the resolutions of



annexation were adopted, and who now intend to vote for this bill, upon the idea that we are under a moral obligation to pay those debts, in opposition to their votes heretofore recorded, may be induced to give us the reasons for their change. I doubt very much whether Texas believes she is under any moral obligation to pay her revolutionary debt. By her legislation many of her debts contracted might have been discharged by land at fifty cents per acre, at the option of her bondholders. On the 22d January, 1845, Texas passed an act granting preëmtions to settlers and improvers of the vacant public domain. The preëmtioner, to secure his preëmtion certificate, was required to pay at the rate of two dollars per acre, in the old promissory notes, bonds, funded debt, or other liquidated demands against the republic, in accordance with the provisions of an act approved February 5, 1841, or fifty cents per acre, in par funds. But even this provision for redeeming her debt at two dollars per acre, instead of fifty cents, as originally promised, was suspended by an act passed on the 26th of June, 1845; and I have found no subsequent law relieving the holders of land scrip, bonds, &c., originally made receivable in payment for vacant lands, from the effects of this suspension. This looks as if Texas did not intend to discharge her liabilities in land, even at two dollars per acre, when the holders of her bonds had a right to expect they were to be permitted to purchase at fifty cents per acre. I do not refer to those acts of the Legislature of Texas in any spirit of reproach. Far from it. My object is to show that those liabilities of Texas had depreciated so much as to become almost worthless. Under such circumstances, were she to follow our example in respect to a part of our revolutionary debt—I allude to our continental paper money—we are the last persons in the world who should utter a word of complaint. Sir, there is every allowance to be made for Texas when her necessitous circumstances are considered. She was engaged in a perilous struggle for her liberty and independence. Her population was small. Her citizens had recently settled a wilderness. They were poor. Her government had to raise means to prosecute her revolutionary war, by promising large interest and entering into contracts at enormous prices. She was unable to pay the interest she promised, and on the 16th of May, 1838, she passed an act to pay the interest on her funded debt and all other debts of her government, in promissory notes. She was so destitute of money among her people that, on the 19th of January, 1839, she passed an act requiring officers, except certain judges, to receive her promissory notes in payment of their fees, or forfeit their offices. Time after time, and even as late as the 28th of June, 1845, acts were passed to pay her ordinary appropriations in promissory notes and exchequer bills. So great were her necessities that, on the 8th of January, 1845, she authorized her Secretary of the Treasury to anticipate her revenue by issuing drafts upon the collector of the direct taxes for Bowie county, in favor of a man named Bird, for \$100 payable in 1845, \$150 payable in 1846, \$200 payable in 1847, and \$150 payable in 1848. Various other acts of a similar character were passed during the same session. Under such a state of things it was impossible to prevent the liabilities of Texas from great depreciation, and the original holders of her

bonds in many cases, no doubt, have transferred their claims for a song; and we are now to enrich the Shylock assignee, in violation of the assurance to the American people that the United States were never to pay her debts, upon some lately-discovered principle of *moral duty*!

Mr. President, I have occasionally heard it said that Texas mortgaged her duties on imports to her creditors, and that, as the mortgaged estate has come into our hands, we must pay the debt if we are willing to be governed by equitable principles. My first remark in reply to this is, that duties on imports not yet collected are not things in being, they are mere possibilities. They may never exist. The law imposing them may be repealed. Non-intercourse and war may prevent importation. A thing which does not exist at the time is not the subject of contract, mortgage, or pledge. Such is the general rule, even should there be exceptions. This consideration is sufficient to show that a mortgage or pledge by a State, of revenues of any kind, thereafter to be collected, can, in the very nature of things, amount to no more than a promise to appropriate the particular revenue when collected in a specific manner. Now, is there any greater moral force or obligation binding a State or an individual to pay the debt, for the payment of which a particular fund, to accrue in future, but which was never collected, had been set apart and consecrated, than there is to pay a debt for which public or private faith is pledged? Upon what ground of morals is it that one honest debt shall have preference over another in reference to the future acquisitions of the debtor? When debts are contracted, all the property then owned by the debtor, under no incumbrance, is equally liable to every creditor, and so of the future earnings of the debtor. What right in morals has he, after going in debt to a thousand persons, then to contract with a thousand others, and pledge or mortgage to these last all his future earnings to the exclusion of the first? I know there are "preferred debts" recognized by law. I know that public sentiment justifies a failing debtor in discharging those debts which will save his sureties in preference to those where he has given no surety.

But where there is no law to regulate the distribution of the assets and the rights of the parties, what is the great principle of conscience and equity? It is a pro rata distribution among all honest creditors. There is no law which constrains us. If, therefore, we are bound in conscience to pay anything for Texas, it seems to me one creditor is as much entitled as another, in proportion to the debt due him. I cannot admit that Texas had the moral right to pledge or mortgage duties on imports to be collected in future, so as to give her subsequent creditors a preference, and to place them upon a better footing than those who had previously advanced their money upon pledges of her faith and her public domain. But all these pledges were nothing more than promises on the part of Texas; and it is said one of these promises she can never fulfill in consequence of granting to us her custom-houses, and the exclusive right to levy duties on imports. Admit all that to be true, how does a violation of promise on her part impose a moral obligation on us to do the thing she promised to do? It is said we step into her shoes, and we get the duties she would have received but for her annexation. True. But



how does that bind us in morals to pay any part of her debts? It is said we have lessened her means and ability to pay by taking from her these duties, and therefore in conscience we ought to surrender them. If we paid an equivalent and the full value of these duties, does equity require us to pay more? Now, I think it can be abundantly shown that in annexing Texas, and taking upon ourselves the duty of defending her, and delivering her from a government she was unable to support, that we have paid much more than an equivalent for the duties on imports she has surrendered to us. But to this it may be said we should pay her creditors to whom the duties were pledged, because both Texas and the United States acted in bad faith in entering into the contract of annexation, by which Texas was deprived of the power of fulfilling her engagement. Let us test this by putting analogous cases. Suppose a farmer promises to one set of creditors the fleece of his flocks from year to year, to another set the produce of his orchards, and to a third that of his fields and meadows. Suppose a large holder of stocks shall promise to one set of his creditors the annual dividends of his government stocks, to another set his dividends on bank stocks, and to a third the profits upon his corporation stocks for manufacturing purposes. In these cases, shall the mere promise to apply to the benefit of creditors the profits from year to year, as they come into the hands of the owner, prevent the sale and transfer of these estates and stocks? If that should be done, there could not be a system devised more pregnant with fraud, or more injurious to the improvement and advancement of society. Such a device would enable the owner to retain and live sumptuously upon his estates, by defrauding one set of creditors, upon the pretext that he had pledged the profits to a different set. Such doctrine would arrest the free alienation of estates, so essential to the general welfare.

The error in supposing that we are under any moral obligation to pay any portion of the debts of Texas grows out of our ideas in regard to incumbrances upon private property, which, at the time of their creation, were sanctioned by law. These incumbrances become legal rights, and as such are enforced. The error consists in supposing that such legal rights existing between individuals are analogous in principle, and should furnish the rule applicable to Texas and the United States. Were I to present an individual case which would in principle bear a strong analogy, and illustrate the subject, it would be this: A owes B a debt, and promises to pay it out of the rents of his house. Afterwards he sells the house to C, who has full knowledge of the promise. The debt being unpaid, B demands payment of C, upon the ground that he is morally, though not legally bound. To this C replies, and reasons thus—"the contract between A and myself was advantageous to both, especially so to him. He informed me that his other means were enough to pay you, and leave something handsome besides. He and I both thought the contract would, and I still think it has, relieved him from certain difficulties of a serious character. Thus relieved, he is now more able to pay you than he would have been. He and I acted conscientiously in the bargain, supposing you would be benefited instead of injured. I knew

you had no legal claim which could interfere with my purchase. I therefore protest against your demand in the court of conscience."

But suppose the United States are liable, what is the extent of her liability? Certainly it cannot be extended beyond the value of the duties on imports which were pledged to the creditors of Texas, nor beyond the amount of the debt for which the pledge was made. What is the value of the duties? No one has given an estimate.

The data for an estimate are so uncertain, that the best estimate would be no more than an unsatisfactory conjecture. The amount of the debt, however, admits of something like certainty. I find, from an examination of the laws of Texas, that she authorized three loans. The first by act of 18th November, 1836, for \$5,000,000. This act pledges the public faith, the proceeds of the public lands, and the land tax, for the redemption of the loan. The second, by act of 16th May, 1838, also for \$5,000,000. This act pledged the public faith, and promised to pay ten per cent. interest per annum, at such time and place as may be agreed on. In these acts there was no pledge of the duties on imports. The third loan was authorized by an act of the 22d January, 1839. The sum to be borrowed under this act was \$1,000,000, at an interest of eight per cent. per annum; and by this act the customs or duties on imports were pledged for the redemption of principal and interest. There was no pledge of the customs for any debt contracted by Texas prior to this act.

On the 7th of June, 1837, Texas passed an act to consolidate and fund her public debt to the amount of \$3,000,000 only, and in this act pledged the public faith to redeem the stock. The act appropriates and sets apart so much of the revenue arising from imposts and direct taxation as may be necessary to pay the annual interest. But this appropriation constitutes no pledge, or mortgage, or security. It was no inducement with the lender to part with his money in the first instance, and hence did not enter into the original contract.

But suppose the funding act of June amounted to a valid pledge of the customs morally binding on us, the question still is, What does the debt amount to which, upon the most liberal principles, we ought to pay? Sir, I have before me a report, published with the acts of the Legislature of Texas, showing the state of her debts on the 1st of January, 1848. According to this statement, made by the authorities of Texas, her domestic debt on that day stood thus:

Audited drafts.....	\$267,384 40
Treasury notes.....	2,553,941 00
Eight per cent. bonds.....	809,800 00
Funded debt.....	1,675,800 00
*Interest on liabilities.....	2,539,221 21
Unaudited claims.....	1,050,000 00

Total domestic debt .....	8,906,146 61
The foreign debt stood thus:	
Due Bank of the United States, including interest.....	\$740,000 00
Claimed by James Holford, &c., for steamer Zavalla, including interest.....	333,054 90

\*In this item of interest the comptroller allowed five per centum interest on treasury notes in circulation, which did not bear interest according to law, and submitted the propriety of this allowance to the Legislature. The sum thus allowed for interest by the comptroller, amounted to \$740,749 21; which being deducted would leave the interest on the other liabilities of Texas equal to \$1,793,472, and no more.



Claimed by H. Dawson, &c., for naval vessels,  
including interest ..... 1,071,000 07

Total foreign debt..... 2,144,054 90

Thus the aggregate debt, as estimated and reported, is \$11,050,201 51. The report goes on to show how this aggregate was made up, and in its details there are certain facts stated which show the ruinous contracts into which Texas was forced by her necessities, and which are worthy of being noted as a warning to *financiers* in all time to come. The debts claimed by Holford & Dawson originally amounted to the sum of \$370,014 84, and no more, to wit: \$90,014 84 to Holford and his associates for their steamer, and \$280 000 to Dawson, &c., for their vessels. The process by which these two sums swell, the one to \$333,054 90, and the other to \$1,071,000, should be a caution! It is thus explained in a note: "Owing to the failure of the government to meet the demand at maturity, double the sum in ten per cent. bonds were issued, according to the previous agreement." Thus, \$370,014 89 is first doubled, making \$740,029 68, and bonds issued for this sum, bearing ten per cent. interest per annum. The amount due on these bonds at the date of the estimate had swelled to \$1,404,054 90!

Sir, it is palpable that this whole business was in the beginning a gambling transaction on the part of Messrs. Holford & Dawson and their associates. They sold their water craft, whether new and sound, or old and rotten, I know not, at a living price, no doubt, in the apprehension that they were incurring great hazard. If Texas proved punctual, \$370,014 84 was enough. If Texas failed, they must have ten per cent. bonds, double the amount, for their risk. Texas did fail in paying the money, but she doubled the debt by giving the bonds according to contract. Now, sir, instead of feeling myself bound by any moral consideration to pay Messrs. Holford & Dawson \$1,404,054 90, with such interest as may have accrued since the 1st of January, 1848, I should feel as if I was swindling my constituents to apply their money to any such purpose.

But let this case pass. The report gives us the rates at which each class of liabilities were probably available to the government of Texas on a par basis. The first class of liabilities, including the debt to the bank of the United States, the debts to Holford & Co., and to Dawson & Co., certain audited drafts, and amount due Samuel Swartwout and others, and the amount of unaudited claims, including interest on the same, all of which are admitted to have been available at par, according to the sums expressed on the face of the claims, amount to \$3,439,394 97. This is a strange admission, after conceding that the sums due Holford & Dawson were doubled in the manner already stated. As I here find Mr. Samuel Swartwout an admitted creditor of Texas, and as he is a large defaulter, I take the liberty of suggesting that if we are to pay the debts of Texas, I should like to set off so much as he owes us in payment of what Texas owes him.

Mr. HOUSTON. If the gentleman will permit me, I will explain that to him.

Mr. UNDERWOOD. Certainly, sir.

Mr. HOUSTON. In 1839, I think it was, there were two Texan vessels of war which entered the port of New York for some repairs. They were, however, unable to raise the money for the pur-

pose, when Samuel Swartwout, with others, liberally stepped forward and advanced the amount required to release them from the condition in which they were placed. The Texan Government never reimbursed them, because it was unable to do so; but the obligation has ever been recognized. There has never a more honest transaction taken place; and whatever reflections gentlemen may choose to cast upon his name in this Senate, I take great pleasure in assuring them that while there is a Texan who appreciates his liberty, or associates a recollection with any achievement of Texas, they will feel grateful to him for the favor conferred on their State by that act.

Mr. UNDERWOOD. I made no reflection on him. It is not my habit to reflect on anybody. I merely made the remark, that, as he was a debtor to the United States, if we pay the debts of Texas, we might make our claim a set-off to his.

Mr. HOUSTON. I would say that the claim was long since, with other matters, transferred to his creditors, as I understand.

Mr. UNDERWOOD. Then it cannot be done. I will proceed with the statement of what the report contains.

The second class of liabilities is said to be composed of the ten per cent. consolidated stock of June 7th, 1837, including interest, and which is put down as having been available to the Government at the rate of one third of its nominal amount. Thus scaling the liability under this class, and we have, as the true sum Texas ought to pay, \$450,763 97.

The third class of liabilities is composed of the ten per cent. stock created by act of February 5th, 1840, and the eight per cent. stock created by the same act, including interest. This is valued as having been available at the rate of thirty cents on the dollar, and gives the true and just sum to be paid, \$440,445 60.

The fourth and last class of liabilities is composed of certain audited drafts in circulation, treasury notes, and eight per cent. bonds, including interest, valued as having been available to the Government at the rate of twenty-five cents on the dollar, leaving the sum which should be considered as justly due, \$1,197,590 65.

Thus, according to the report, the debts of Texas, included within the second, third, and fourth classes of her liabilities, nominally amount to the aggregate of \$7,610,806 50; which, being scaled and reduced to the sums which were realized by the Government, would make no more than \$2,088,800 22. Add to this \$3,439,394 97, the amount of liabilities for which the report admits the receipt of value at par, (notwithstanding the doubling of the debts due Holford and Dawson,) and we have \$5,528,195 19 as the true amount which the comptroller seems to acknowledge ought to be paid.

The funding act of June 7th, 1837, required the Secretary of the Treasury to notify the creditors of Texas to bring forward their claims by the 1st of September following, and all claims produced which had passed the "auditorial department" were to be funded. The funding act of the 5th of February, 1840, provided for funding promissory notes which should be presented prior to the 1st of July, by issuing a stock for them with interest thereon, payable semi-annually, at the rate of ten per cent. per annum; and for funding those



presented after the 1st of July, by issuing a stock bearing an interest of only eight per cent. per annum. In tracing these acts of Texas, I do not find any provision expressly requiring the eight per cent. bonds, issued on account of the third loan of \$1,000,000, to be surrendered and new certificates of stock issued for them. In the fourth class of liabilities, in the report of the comptroller, I perceive that eight per cent. bonds are spoken of as still outstanding; and as I can see no reason for changing the character of the eight per cent. bonds for which the duties on imports were pledged, I suppose those outstanding eight per cent. bonds are those given under the third loan act which passed on the 22d January, 1839. If so, Mr. Shaw, the comptroller, puts down these bonds as having been available to the Government at the rate of twenty-five cents in the dollar. Thus these debts of Texas, being the last contracted under her laws authorizing borrowing of money, and the only debts for which her customs were pledged, are the only debts favored by this bill, and they are to be paid according to their nominal amount, with interest, although they were contracted under circumstances which enabled Texas to realize no more than twenty-five cents in the dollar! Fortunate and happy creditors! They advance a quarter, a fraction of one quarter, get a bond for the unit, humbug Congress by talking of *moral obligations*, and fill their pockets out of the national Treasury!

But, sir, this bill is deceptive upon its face. It provides that five millions of the stock to be created for Texas shall not be issued until her creditors holding bonds for which "duties on imports were specially pledged shall first file at the Treasury of the United States releases of all claim on account of said bonds." Now, it may be inferred from this that these bonds will amount to about five millions of dollars, when the truth is, according to the laws of Texas, they cannot exceed one million exclusive of interest. I suppose the true amount is \$809,800, being the third item in the table of the domestic debt. We thus appear before the public as if we were making provision to pay five millions of the debt of Texas, when, in truth, we are providing to pay the least meritorious of her creditors, those who shaved the deepest; according to her comptroller, less than two millions, even when the interest, at the rate of eight per cent. per annum, is added to the principal. We thus disappoint the largest and most meritorious portion of the creditors of Texas, and hereafter bring them upon us with new texts and moral sermons; and they will preach them from year to year, and from age to age, until Congress shall have been convinced of its *duty*, and shall grant ten or twenty millions more to pay their claims! We are to pay the bonds for which duties on imports were pledged without scaling them down to their value. We must, for the sake of uniformity in the rule, pay all other claims in the same manner, I have already shown, from the tables exhibited, that the whole debt, without being cut down to the sums Texas realized, exceeds eleven millions.

When Texas shall compound with those creditors who hold her bonds under the loan act of one million, and induce them to file their releases, she then, under the bill, will be entitled to receive the remaining five millions of stock. By the operation she must clear between eight and nine millions

of dollars. A handsome speculation, truly! She gets this money, not for any vacant land she sells us, for it does not appear that we shall get an acre; and even if we are to get millions of acres, it does not appear to be worth a cent an acre. All that she surrenders and we obtain is the civil jurisdiction over some seventy or eighty thousand Mexicans and Pueblo Indians and the probable consecration of the country as "*free soil*." And in addition to that, we are told that we shall obtain peace and harmony for a distracted country, and avert the horrors of civil war.

But how are we morally bound to pay any part of the debts of Texas until she has exhausted the land fund which she reserved, and when she possesses the ability to pay her own debts? Before any just claim can be preferred against us, the lands she retained, with the express declaration that they were to be applied to the extinguishment of her debts, should be exhausted. Let that be done; and if she has sold any of them, and used the money for other purposes, let Texas pay the amount out of her increasing revenues, and then, if a portion of her debts are still unpaid, I shall be more disposed to listen to the demands upon us for their payment. There is not a State in the Union, I venture to say, whose financial resources are increasing with greater rapidity than those of Texas. In 1846, her revenue amounted to \$104,616; in 1847, it rose to \$120,384—thus exhibiting an increase of more than eleven per cent. in one year. It seems that her system of taxation is a percentage on the value of property, and a poll-tax. In the years 1846 and 1847, she collected, besides the poll-tax, only twenty cents on each hundred dollars of the valuation of the property of her citizens. A tax so moderate, and yet so productive, and so rapidly increasing, the amount yielded proves that the time must shortly arrive when Texas will be able to meet the demands of her creditors, as well as some other of the indebted States in our Union. If we are to relieve Texas from debt, why not assume the debts of all the States?

My vote against this bill will probably subject me to more responsibility with my constituents than I shall be well able to bear, although I may not be able to defeat its passage. That responsibility will be vastly increased if for the want of my vote the bill is lost. In view of this responsibility, I have endeavored to exhibit to the Senate, and will lay before my constituents, the facts which have controlled my judgment. Whatever may be the result, I shall at least have the consolation of having faithfully examined the subject, and then voted as I believed to be right. I have not been able to give the weight of a feather to the idea, so often advanced, that this bill could have the least possible effect in harmonizing the country. On the contrary, it will increase distraction and discontent. The cause which operates at the South, and threatens the dissolution of the Union, is to be found in the fact that southern blood and treasure have been liberally expended in the acquisition of vast territories from which southern citizens are to be excluded, unless they separate themselves from their slaves; and in the further fact, that, by the Missouri Compromise, they were compelled to surrender two thirds of Louisiana, and make it "*free soil*" in order to secure to the people of Missouri the privilege of self-government. They were thus compelled to purchase a



right which they regard as laying at the foundation of American liberty and republican institutions. These things, aggravated by the manner in which they have been treated in respect to fugitive slaves, are the great causes of dissatisfaction at the South. They perceive in the growing political power of the North but little hope of any change for the better; and hence disunion has suggested itself as a remedy. The sentiment is growing at the South that it would be better to separate from those with whom, owing to their hatred to southern institutions, it is almost impossible to live in peace. In these things, I repeat, you have the causes of disaffection.

Now, sir, how will it remove any of these complaints, or any of their fearful consequences, to run your arm into the Treasury and hand out ten millions of dollars to Texas? How will it satisfy the Carolinas and Georgia, to take the money which belongs to their people, in common with the whole people of the United States, and give it to Texas to make more "free-soil" by restricting her territory, if, as most gentlemen from the South contend, her true boundary extends to the source of the Rio Grande? Such conduct, sir, will be regarded as the offer of a bribe to Texas, and an insult to those who have heretofore denounced the treatment they have received at the hands of the North. It is using money belonging in part to the South, to restrict the jurisdiction and laws of a slaveholding State, and thereby to continue and progress with the same system of restrictions which has occasioned all our difficulties. If the country belongs rightfully to Texas, the mind must be as dark as the bat-chamber of the mammoth cave which does not perceive the outrage which this bill offers to southern sentiment.

I have already alluded to the threatened civil war, unless we appease the hot-bloods of Texas. If the people of Texas are so avaricious for money, that ten millions will arrest their belligerent propensities—if they prefer money to blood, and that sum will induce them to remain at peace—it might possibly cost us less to hand over the money than to defend the nation against the attack. If, therefore, it was a mere question of dollars and cents, it might be good policy to pass the bill, in case war with Texas is to be the inevitable result of its rejection. But, Mr. President, there are higher considerations with me than any which rise out of the money aspect of this bill. I have endeavored to show that Texas has no right to any part of New Mexico east of the Rio Grande. But even if she is the rightful owner of every foot of it, I hold that it would be treason in her citizens, under State organization, to make war against the United States. She has no right to raise an army, to become arbiter in her own cause, and to undertake to redress herself by violence and bloodshed, as I have already shown.

It is not pretended that Texas ever had possession of the country which she is about to invade with an army. Now, sir, to pay her under these circumstances, and by the payment to prevent her citizens committing the crime of treason, would, in my judgment, do more harm to the cause of human freedom and the perpetuation of republican institutions, than all the money on earth could do good. Such a payment, for such a purpose, amounts to a proclamation to the whole world that the time has arrived in our history when we rely

upon the corrupt power of money to preserve peace, instead of our capacity to enforce, through the virtue and intelligence of the people, those constitutional remedies provided by our ancestors for settling controversies to which States are parties. We lose the influence of the example we ought to give to all mankind, that the wisdom of our revolutionary fathers devised an efficient remedy for States and the Union, by which their conflicting claims should be adjusted—just as efficient as that provided for individuals. We set aside the constitutional powers of the Supreme Court as dilatory and inefficient, and invite every State, which can get up a claim against the United States and threaten war, to prescribe her own terms, and we promise submission in advance. In my opinion, the application of such principles of action to the affairs of this Government will bring its Administration into contempt with the people. Our citizens will lose confidence in the strength and ability of the Government to protect itself, if we now depart from and give up the constitutional remedy; and in the end they will spurn a Government which taxes them to pay for peace, which should be secured by the adjudications of the constituted tribunals, and, spurning, they will destroy it. Our maxim in regard to foreign nations used to be, "Millions for defence—not a cent for tribute." I would apply the same maxim to everything like a threat, come from what quarter it may.

Sir, no man in private life can escape bankruptcy and disgrace if he buys his peace from every one who may think proper to threaten him. He must have firmness to maintain his just rights and to defy violence. The same rule is equally applicable to States and nations. When the political stampede into which our politicians are thrown shall have subsided, they will look upon their votes for this bill with regret, if not deep mortification. Sir, I have seen no evidence of any threat coming from any one in Texas authorized to speak for her. When her Legislature, forgetting the Constitution of the country, and setting at naught its provisions, shall pass laws to raise troops with a view to march them into New Mexico, it will then be time enough to take the alarm. It is very certain that the United States will not march an army into Texas to attack her; and if the Texans will only remain where they are, we shall have no civil war. I have from the beginning regarded the idea of a civil war growing out of the claim of Texas to extend her boundaries to the sources of the Rio Grande as preposterous.

No, sir, if a civil war comes, it will grow out of a determination to break up the Union, and the Texan claim to New Mexico will be nothing more than a pretext to bring it on. You need not say that the payment of ten millions under this bill will deprive the South of that pretext. Sir, if it be the determination of the South to form a new confederacy, the payment of ten millions to Texas will not prevent it. Other pretexts for a movement so destructive to our lasting welfare can be readily started. If the North really desired to avert a catastrophe so dreadful, the course to accomplish it upon the termination of the Mexican war was very plain. It was only necessary to admit that the diffusion or spreading of slavery over a larger surface was no increase of the number of slaves, and with that admission to have extended the Missouri compromise line to the Pacific,



with a guarantee that slaveholders might settle south of the line with their slaves, and be protected in holding them. This I proposed two years ago, but it was rejected. I admit your power, but you have exercised it in a manner to produce the deepest and worst feeling at the South. It will not be healed by this ten-million bill for Texas. It will require time and forbearance. The non-slaveholding States must concede that slavery is a local institution, to be left entirely to the people of the States and Territories who are affected by it; and they must cease to intermeddle by forwarding offensive petitions on the subject to the two Houses of Congress. They must cease to abuse and prostitute the right of petition by calling on Congress to enact laws which are not to operate upon them, but upon a separate community. The right of petition is limited in reason to asking for a change of the laws which operate upon the petitioner, and does not extend to laws which regulate the affairs of other persons. Let the people of the non-slaveholding States cease to concern themselves about the local laws

of this District, and of the southern States, which do not bear on them. By so doing they will manifest some respect for the people of the South, who will never surrender the right to manage their own affairs in their own way.

By the passage of the bill establishing a government for Utah without the "Wilmot proviso," this body has indicated a disposition to treat the question of slavery as local, and to leave it to the local authorities. This is the only ground of compromise, unless you consent to divide the territory by the line of  $36^{\circ} 30'$  or some other, and guaranty slavery to the south of it. I now despair of obtaining such a division. Leaving the question of slavery to the local authorities is the next best thing for the people of the South. Under the adoption of that principle of action by Congress, I trust that sectional asperities may be smoothed and polished by good sense and mutual respect and courtesy, and that the great interests of a united people may be ever protected against the machinations of traitors and demagogues.